2014 Special Session I

Budget Bill - HB5004 (Introduced)

Central Appropriations

Item 467	First Year - FY2015	Second Year - FY2016
Compensation and Benefit Adjustments (75700)	**$120,942,739**	**$157,709,181**
Adjustments to Employee Compensation (75701)	$9,033,474	$11,123,966
Adjustments to Employee Benefits (75702)	$111,909,265	$146,585,215
Fund Sources:		
General	$120,942,739	$157,709,181

Authority: Discretionary Inclusion.

A. Transfers to or from this Item may be made to decrease or supplement general fund appropriations to state agencies for:

1. Adjustments to base rates of pay;

2. Adjustments to rates of pay for budgeted overtime of salaried employees;

3. Salary changes for positions with salaries listed elsewhere in this act;

4. Salary changes for locally elected constitutional officers and their employees;

5. Employer costs of employee benefit programs when required by salary-based pay adjustments;

6. Salary changes for local employees supported by the Commonwealth, other than those funded through appropriations to the Department of Education; and

7. Adjustments to the cost of employee benefits to include but not limited to health insurance premiums and retirement and related contribution rates.

B. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes stated in paragraph A of this Item, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish the purposes stated in paragraph A of this Item.

C. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in salaries and benefits as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

D. Any supplemental salary payment to a state employee or class of state employees by a local governing body shall be governed by a written agreement between the agency head of the employee or class of employees receiving the supplement and the chief executive officer of the local governing body. Such agreement shall also be reviewed and approved by the Director of the State Department of Human Resource Management. At a minimum, the agreement shall specify the percent of state salary or fixed amount of the supplement, the resultant total salary of the employee or class of employees, the frequency and method of payment to the agency of the supplement, and whether or not such supplement shall be included in the employee's state benefit calculations. A copy of the agreement shall be made available annually to all employees receiving the supplement. The receipt of a local salary supplement shall not subject employees to any personnel or payroll rules and practices other than those promulgated by the State Department of Human Resource Management.

E. The Governor is hereby authorized to transfer funds from agency appropriations to the accounts of participating state employees in such amounts as may be necessary to match the contributions of the qualified participating employees, consistent with the requirements of the Code of Virginia governing the deferred compensation cash match program. Such transfers shall be made consistent with the following:

1. The maximum cash match provided to eligible employees shall not be less than $20.00 per pay period, or $40.00 per month, in each year of the biennium. The Governor may direct the agencies of the Commonwealth to utilize funds contained within their existing appropriations to meet these requirements.

2. The Governor may direct agencies supported in whole or in part with nongeneral funds to utilize existing agency appropriations to meet these requirements. Such nongeneral revenues and balances are hereby appropriated for this purpose, subject to the provisions of § 4-2.01 b of this act. The use of such nongeneral funds shall be consistent with any existing conditions and restrictions otherwise placed upon such nongeneral funds.

4. The procurement of services related to the implementation of this program shall be governed by standards set forth in § 51.1-124.30 C, Code of Virginia, and shall not be subject to the provisions of Chapter 7 (§ 11-35 et seq.), Title 11, Code of Virginia.

F. The Secretary of Administration, in conjunction with the Secretary of Finance, may establish a program that allows for the sharing of cost savings from improved productivity, efficiency, and performance with agencies and employees. Such gain sharing programs require a management philosophy of open communication encouraging employee participation; a system which seeks, evaluates and implements employee input on increasing productivity; and a formula for measuring productivity gains and sharing these gains between employees and the agency. The Department of Human Resource Management, in conjunction with the Department of Planning and Budget, shall develop specific gain sharing program guidelines for use by agencies. The Department of Human Resource Management shall provide to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees an annual report no later than October 1 of each year detailing identified savings and their usage.

G.1. Out of the appropriation for this Item, amounts estimated at $24,584,583 the first year and $59,260,533 the second year from the general fund shall be transferred to state agencies and institutions of higher education to support the general fund portion of costs associated with changes in the employer's share of premiums paid for the Commonwealth's health benefit plans.

2. Out of the amounts included in subparagraph 1of this paragraph, $327,646 the first year and $341,891 the second year from the general fund shall be transferred to the University of Virginia to cover the state share of the increases in employer premiums for state employees participating in the University of Virginia's health care plan.

3. Notwithstanding any contrary provision of law, the health benefit plans for state employees resulting from the additional funding in this Item shall allow for a portion of employee medical premiums to be charged to employees.

4. The Department of Human Resource Management shall explore options within the health insurance plan for state employees to promote value-based health choices aimed at creating greater employee satisfaction with lower overall health care costs. It is the General Assembly's intent that any savings associated with this employee health care initiative be retained and used towards funding state employee salary or fringe benefit cost increases.

5. Notwithstanding any other provision of law, it shall be the sole responsibility and authority of the Department of Human Resource Management to establish and enforce employer contribution rates for any health insurance plan established pursuant to § 2.2-2818, Code of Virginia.

6. The Department of Human Resource Management is prohibited from establishing a retail maintenance network for maintenance drugs that includes penalties for non-use of the retail maintenance network.

H.1. Contribution rates paid to the Virginia Retirement System for the retirement benefits of public school teachers, state employees, state police officers, state judges, and state law enforcement officers eligible for the Virginia Law Officers Retirement System shall be based on a valuation of retirement assets and liabilities that are consistent with the provisions of Chapters 701 and 823, Acts of Assembly of 2012.

2. Retirement contribution rates for the first year and the second year, excluding the five percent employee portion, shall be: 14.50 percent for public school teachers, 12.33 percent for state employees, 27.63 percent for state police officers, 18.24 percent for the Virginia Law Officers Retirement System, and 51.66 percent for the Judicial Retirement System. These rates include both the regular contribution rate and the rate calculated by the Virginia Retirement System actuary for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium.

3. Payments to the Virginia Retirement System shall be made no later than the tenth day following the close of each month of the fiscal year.

4.a. Out of the general fund appropriation for this Item is included $75,586,372 the first year and $75,586,372 the second year to support the general fund portion of the net costs resulting from changes in employer contributions for state employee retirement as provided for in this paragraph.

b. Out of the amounts included in subparagraph 4.a of this paragraph, $26,800,957 the first year and $26,800,957 the second year is included for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for retirement contributions are appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer retirement contribution rate for public school teachers is appropriated elsewhere in this act under Direct Aid to Public Education.

I.1. Except as authorized in Paragraph I.2. of this Item, rates paid to the Virginia Retirement System on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the higher of: a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium, eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium, ninety percent of the results of the June 30, 2015 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2016-18 biennium, one-hundred percent of the results of the June 30, 2017 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees

for the 2018-20 biennium.

2. Rates paid to the VRS on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions may, at each participating employers option, be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia.

3. Every participating employer must certify to the board of the Virginia Retirement System by resolution adopted by its local governing body that it: has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of electing or not electing to utilize the employer contribution rates certified by the Virginia Retirement System Board of Trustees, as provided for in paragraph I.2.

4. Prior to electing to utilize the employer contribution rates certified by the Virginia Retirement System Board of Trustees, as authorized in paragraph I.2, local public school divisions must receive the concurrence of the local governing body. Such concurrence must be documented by a resolution of the governing body.

5. The board of the Virginia Retirement System shall provide all employers participating in the Virginia Retirement System with a summary of the implications inherent in the use of the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees set out in paragraph K.2, and the alternate employer contribution rates set out in paragraph I.1

J. The Virginia Retirement System Board of Trustees shall account for the employer retirement contribution payments deferred for the 2010-2012 biennium based on limiting employer retirement contributions to the Virginia Retirement System to the actuarial normal cost. In setting the employer retirement contribution rates for subsequent biennia, the board shall calculate a separate, supplemental employer contribution rate that will amortize such deferred payments over a period of ten years using the board's assumed long-term rate of return. The Governor shall include funds to support payment of such board-approved, supplemental employer contribution rates in the budget submitted to the General Assembly.

K.1. Contribution rates paid to the Virginia Retirement System for other employee benefits to include the public employee group life insurance program, the Virginia Sickness and Disability Program, the state employee retiree health insurance credit, and the public school teacher retiree health insurance credit, shall be based on a valuation of assets and liabilities that assume an investment return of seven percent and an amortization period of 30 years.

2. Contribution rates paid on behalf of public employees for other programs administered by the Virginia Retirement System in the first year and the second year shall be: 1.32 percent for the state employee group life insurance program, 0.53 percent for the employer share of the public school teacher group life insurance program, 0.62 percent for the Virginia Sickness and Disability Program, 1.17 percent for the state employee retiree health insurance credit, and 1.18 percent for the public school teacher retiree health insurance credit.

3. Out of the general fund appropriation for this Item is included $10,567,637 the first year and $10,568,637 the second year to support the general fund portion of the net costs resulting from changes in employer contributions for state employee benefits as provided for in this paragraph.

4. Out of the general fund appropriation for this Item is included $1,169,673 the first year and $1,169,673 the second year to support the general fund portion of the net costs resulting from changes in the retiree health insurance credit contributions for state supported local public employees through the Compensation Board, the Department of Social Services, and the Department of Elections pursuant to § 51.1-1403, Code of Virginia.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for public employee group life insurance contributions is appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer public school teacher group life insurance and retiree health insurance credit rates is appropriated elsewhere in this act under Direct Aid to Public Education.

L. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia for employees who are involuntarily separated from employment with the Commonwealth if the Director of the Department of Planning and Budget certifies that such action results from 1. budget reductions enacted in the Appropriation Act, 2. budget reductions executed in response to the withholding of appropriations by the Governor pursuant to §4-1.02 of the Act, 3. reorganization or reform actions taken by state agencies to increase efficiency of operations or improve service delivery provided such actions have been previously approved by the Governor, or 4. downsizing actions taken by state agencies as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue, and if the Director of the Department of Human Resource Management certifies that the action comports with personnel policy. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

M. The purpose of this paragraph is to provide a transitional severance benefit, under the conditions specified, to eligible city, county, school division or other political subdivision employees who are involuntarily separated from employment with their employer.

1.a. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the employer, or being placed on leave without pay-layoff or equivalent status, due to budget reductions, employer reorganizations, workforce downsizings, or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary resignations. As used in this paragraph, a "terminated employee" shall mean an employee who is involuntarily separated from employment with his employer.

b. The governing authority of a city, county, school division or other political subdivision electing to cover its employees under the provisions of this paragraph shall adopt a resolution, as prescribed by the Board of Trustees of the Virginia Retirement System, to that effect. An election by a school division shall be evidenced by a resolution approved by the Board of such school division and its local governing authority.

2.a. Any (i) “eligible employee” as defined in § 51.1-132, (ii) “teacher” as defined in § 51.1-124.3, and (iii) any “local officer” as defined in § 51.1.124.3 except for the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, and (a) for whom reemployment with his employer is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this paragraph. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

b. Eligibility shall commence on the date of involuntary separation.

3.a. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.

b. Transitional severance benefits shall be computed by the terminating employer's payroll department. Partial years of service shall be rounded up to the next highest year of service.

c. Transitional severance benefits shall be paid by the employer in the same manner as normal salary. In accordance with § 60.2-229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.

d. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan administered by the employer for its employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1, or such other group life insurance plan as may be administered by the employer. During such twelve months, the terminating employer shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.

e. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an individual capacity as an independent contractor or consultant by the employer during the time he is receiving such payments.

f. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.

4.a. In lieu of the transitional severance benefit provided in subparagraph 3 of this paragraph, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, and (ii) at least fifty years of age, may elect to have the employer purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the employer shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the employer shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subparagraphs 3.a. and 3.d. of this paragraph by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153 and 51.1-205, and disability retirement under the provisions of § 51.1-156 et seq., shall not be available under this paragraph.

b. In lieu of the (i) transitional severance benefit provided in subparagraph 3 of this paragraph and (ii) the retirement program provided in this subsection, any employee who is otherwise eligible may take immediate retirement pursuant to §§ 51.1-155.1 or 51.1-155.2.

c. The retirement allowance for any employee electing to retire under this paragraph who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A. 2. of § 51.1-155.

d. The retirement program provided in this subparagraph shall be otherwise governed by policies and procedures

developed by the Virginia Retirement System.

e. Costs associated with the provisions of this subparagraph shall be factored into the employer contribution rates paid to the Virginia Retirement System.

N. The final sentence of § 51.1-145 (N), Code of Virginia providing that the employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in optional defined contribution retirement plans, shall not apply to optional defined retirement plans established under § 51.1-126 for employees engaged in teaching, administrative or research duties at institutions of higher education, § 51.1-126.1 for employees of teaching hospitals other than VCU and UVA Medical Centers, and § 51.1-126.3 for University of Virginia Medical Center employees.

O.1. All classified employees of the Executive Branch and other full-time employees of the Commonwealth, except elected officials, who were employed on April 1, 2014, and remain employed until at least November 24, 2014, shall receive a one-time bonus payment equal to up to two percent of base pay on December 1, 2014, contingent upon any discretionary unspent general fund appropriations recommended by the Governor for reversion at the end of fiscal year 2014 equaling or exceeding $107,772,638, twice the general fund cost of the two percent bonus. In the event that the total of all funds provided for in this paragraph are insufficient to fully fund the general fund cost of this two percent bonus payment, such bonus payment shall be prorated to a percent of base pay for the general fund payroll that equates to the amount of total general fund resources provided. Employees in the Executive Branch subject to the Virginia Personnel Act shall receive a two percent bonus payment authorized in this paragraph only if they have attained an equivalent rating of at least "meets expectations" on their performance evaluation and have no active written notices under the standards of conduct for the preceding review period.

2. All classified employees of the Executive Branch and other full-time employees of the Commonwealth, except elected officials, who were employed on April 1, 2014, and remain employed until at least November 24, 2014, shall receive an additional one-time bonus payment equal to up to one percent of base pay on December 1, 2014, contingent upon additional general fund resources equaling or exceeding $7,005,232, twice the general fund cost of the one percent bonus, from the combination of actual general fund revenue collections for fiscal year 2014 exceeding the official fiscal year 2014 revenue estimate contained in the first enactment of the 2012-14 appropriations act, as amended by the 2014 session of the General Assembly, and by any discretionary unspent general fund appropriations recommended by the Governor for reversion at the end of fiscal year 2014. In the event that the total of all funds provided for in this paragraph are insufficient to fully fund the general fund cost of this one percent bonus payment, such bonus payment shall be prorated to a percent of base pay for the general fund payroll that equates to the amount of total general fund resources provided. Employees in the Executive Branch subject to the Virginia Personnel Act shall receive the additional one percent bonus payment authorized in this paragraph only if they have attained an equivalent rating of "exceeds expectations" on their performance evaluation and have no active written notices under the standards of conduct for the preceding review period.

3. For purposes of paying the general fund share of the December 1, 2014, two percent one-time bonus, after meeting all Constitutionally-required deposits to the Revenue Stabilization Fund, the State Comptroller shall reserve an amount on the balance sheet for the general fund attributable to one-half of discretionary general fund balances remaining at the end of FY 2014 up to $107,772,638, twice the general fund cost of the two percent one-time bonus for the state employees authorized in this paragraph. Additionally, for purposes of paying the general fund share of the December 1, 2014, additional one percent one-time bonus, the State Comptroller shall reserve $7,005,232 in the Restricted Fund Balance on the balance sheet for the general fund attributable to fiscal year 2014 general fund revenue collections in excess of the official revenue estimate and discretionary general fund balances recommended for reversion by the Governor, prior to designating amounts for the Committed Fund Balance.

4. The Director of the Department of Planning and Budget shall administratively increase nongeneral fund appropriations as required to implement the one-time bonus payment.

P.1. Pursuant to the recommendations of the state employee compensation work group established by paragraph B of Item 255, Chapter 806 of the Acts of Assembly of 2013, the base salary of the state employees in the following high turnover job roles shall be increased by two percent effective July 25, 2014 for the purposes of relieving salary compression and maintaining market relevance:

a. Law Enforcement Officer I

b. Security Officer I

c. Security Officer III

d. Direct Service Associate I

e. Direct Service Associate II

f. Direct Service Associate III

g. Housekeeping and/or Apparel Worker I

h. Probation Officer Assistant

i. Emergency Coordinator I

j. Emergency Coordinator II

k. Registered Nurse I

l. Registered Nurse II/Nurse Practitioner I/Physician's Assistant

m. Licensed Practical Nurse

n. Therapy Assistant/Therapist I

o. Therapist II

p. Compliance/Safety Officer II

q. District Court Deputy Clerk, Grade 6

r. District Court Deputy Clerk, Grade 7

s. District Court Deputy Clerk, Grade 8

2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.

b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. The governing authorities of those agencies and state institutions of higher education with employees not subject to the Virginia Personnel Act shall certify to the Department of Human Resource

Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.

3. The Department of Human Resource Management shall increase the maximum salary for each band within the Commonwealth's Classified Compensation Plan by two percent on July 25, 2014. No salary increase shall be granted to any employee as a result of this action.

4. The salary increase authorized in this paragraph is intended to be in addition to any other salary increase authorized in this act.

5. Out of the amounts for Supplements to Employee Compensation is included $9,033,474 the first year and $10,323,966 the second year from the general fund to support the general fund portion of costs associated with the salary increase provided in this paragraph.

Q. Pursuant to the recommendations of the state employee compensation work group established by paragraph B of Item 255, Chapter 806 of the Acts of Assembly of 2013, out of the general fund appropriation from this item is included $800,000 in the second year to update the 2008 and 2011 Joint Legislative Audit and Review Commission study on state employee total compensation. The Department of Planning and Budget is authorized to transfer this amount to the Joint Legislative Audit and Review Commission for this purpose.

R. Except as provided elsewhere in this act, the following agency heads, at their discretion, may implement the provisions of new or existing performance-based pay plans in lieu of other pay actions which may be authorized within this Item.

1. The heads of agencies in the Legislative and Judicial Departments;

2. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;

3. The Attorney General;

4. The Director of the Virginia Retirement System;

5. The Director of the State Lottery Department;

6. The Director of the University of Virginia Medical Center;

7. The Executive Director of the Virginia College Savings Plan; and,

8. The Executive Director of the Virginia Port Authority.