

VIRGINIA STATE BUDGET

2008 Session

Budget Bill - HB30 (Introduced)

Bill Order » Office of Education » Item 140

Direct Aid to Public Education

| Item 140 | First Year - FY2009 | Second Year - FY2010 |
|---|------------------------|------------------------|
| State Education Assistance Programs (17800) | \$6,399,847,793 | \$6,599,719,818 |
| Standards of Quality for Public Education (SOQ) (17801) | \$5,476,072,793 | \$5,532,289,605 |
| Financial Incentive Programs for Public Education (17802) | \$374,606,941 | \$519,118,989 |
| Financial Assistance for Categorical Programs (17803) | \$71,668,057 | \$70,811,228 |
| Financial Assistance for School Facilities (17804) | \$477,500,002 | \$477,499,996 |
| Fund Sources: | | |
| General | \$6,225,621,758 | \$6,505,493,783 |
| Special | \$795,000 | \$795,000 |
| Commonwealth Transportation | \$2,173,000 | \$2,173,000 |
| Trust and Agency | \$171,258,035 | \$91,258,035 |

Authority: Standards of Quality for Public Education (SOQ) (17801): Article VIII, Section 2, Constitution of Virginia; Chapter 667, Acts of Assembly, 1980; §§ [22.1-176](#) through [22.1-198](#), [22.1-199.1](#), [22.1-199.2](#), [22.1-213](#) through [22.1-221](#), [22.1-227](#) through [22.1-237](#), [22.1-253.13:1](#) through [22.1-253.13:8](#), [22.1-254.01](#), Code of Virginia; Title 51.1, Chapters 1, 5, 6.2, 7, and 14, Code of Virginia; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 98-524, as amended, Federal Code.

Financial Incentive Programs for Public Education (17802): §§ [22.1-24](#), [22.1-289.1](#) through 22.1-318, Code of Virginia; P.L. 79-396, as amended; P.L. 89-10, as amended; P.L. 89-642, as amended; P.L. 108-265, as amended; Title II P.L. 99-159, as amended, Federal Code.

Financial Assistance for Categorical Programs (17803): Discretionary Inclusion; Treaty of 1677 between Virginia and the Indians; §§ [22.1-3.4](#), [22.1-101](#), [22.1-108](#), [22.1-199](#) through [22.1-212.2:3](#), [22.1-213](#) through [22.1-221](#), [22.1-223](#) through [22.1-237](#), [22.1-254](#), Code of Virginia; P.L. 89-10, as amended; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 94-588; P.L. 95-561, as amended; P.L. 98-211, as amended; P.L. 98-524, as amended; P.L. 99-570; P.L. 100-297, as amended; P.L. 102-73, as amended; P.L. 105-220, as amended, Federal Code.

Financial Assistance for School Facilities (17804): §§ [58.1-638](#), [58.1-638.1](#), and [58.1-4022](#), Code of Virginia.

Appropriation Detail of Education Assistance FY 2009 Programs

FY 2010

Standards of Quality

| | | |
|-----------|-----------------|-----------------|
| Basic Aid | \$3,165,324,548 | \$3,143,184,497 |
|-----------|-----------------|-----------------|

| | | |
|---|------------------------|------------------------|
| Sales Tax | \$1,220,200,000 | \$1,289,200,000 |
| Textbooks | \$80,256,306 | \$80,555,120 |
| Vocational Education | \$66,926,359 | \$67,063,403 |
| Gifted Education | \$30,941,096 | \$31,072,799 |
| Special Education | \$368,574,827 | \$369,543,193 |
| Prevention, Intervention, and Remediation | \$50,228,752 | \$50,045,226 |
| VRS Retirement | \$241,347,011 | \$242,186,005 |
| Social Security | \$176,281,968 | \$176,973,137 |
| Group Life | \$8,245,024 | \$8,275,508 |
| English as a Second Language | \$38,893,696 | \$44,107,117 |
| Remedial Summer School | \$28,853,206 | \$30,083,600 |
| Total | \$5,476,072,793 | \$5,532,289,605 |
| <i>Incentive Programs</i> | | |
| Alternative Education | \$6,770,996 | \$7,209,098 |
| At-Risk | \$67,237,504 | \$66,789,153 |
| Virginia Preschool Initiative | \$68,164,169 | \$83,019,801 |
| Compensation Supplements | \$ 0 | \$130,564,600 |
| Early Reading Intervention | \$17,023,075 | \$17,064,944 |
| Enrollment Loss | \$12,161,196 | \$11,122,979 |
| Governor's School | \$13,800,568 | \$14,322,717 |
| ISAEP | \$2,247,581 | \$2,247,581 |
| Clinical Faculty & Mentor Teacher | \$1,804,392 | \$1,804,392 |
| No Child Left Behind/Education for a Lifetime | \$7,853,362 | \$8,813,362 |
| K-3 Class Size Reduction | \$93,016,112 | \$92,676,268 |
| Project Graduation | \$2,774,478 | \$2,774,478 |
| School Breakfast | \$1,699,557 | \$1,996,551 |
| SOL Algebra Readiness | \$8,984,732 | \$8,971,127 |
| Special Education – Inservice | \$600,000 | \$600,000 |
| Special Education – Regional Tuition | \$64,733,191 | \$70,713,860 |
| Special Education – Voc Ed | \$200,089 | \$200,089 |
| Supplemental Basic Aid | \$618,301 | \$586,251 |
| Data Coordinators in At-Risk High Schools | \$0 | \$2,060,234 |

| | | |
|---|----------------------|----------------------|
| Total | \$369,689,303 | \$521,477,251 |
| <i>Categorical Programs</i> | | |
| Adult Education | \$1,051,800 | \$1,051,800 |
| Adult Literacy | \$2,652,500 | \$2,652,500 |
| Virtual Virginia | \$2,256,908 | \$2,256,908 |
| Foster Care | \$11,739,134 | \$12,639,727 |
| American Indian Treaty Commitment | \$53,805 | \$53,805 |
| School Lunch | \$5,801,932 | \$5,801,932 |
| Special Education – Homebound | \$5,765,773 | \$6,256,372 |
| Special Education – Jails | \$2,954,553 | \$2,954,553 |
| Special Education – State Operated Programs | \$33,906,381 | \$37,177,857 |
| Vocational Education - Categorical | \$10,400,829 | \$10,400,829 |
| Total | \$76,583,615 | \$81,246,283 |
| <i>School Facilities</i> | | |
| Lottery | \$450,000,000 | \$450,000,000 |
| School Construction | \$27,500,002 | \$27,499,996 |
| Total | \$477,500,002 | \$477,499,996 |

Note: The above distributions do not include projected VPSA Technology Grants.

Payments out of the above amounts shall be subject to the following conditions:

A. Definitions

1. "March 31 Average Daily Membership," or "March 31 ADM" - The responsible school division's average daily membership for grades K-12 including (1) handicapped students ages 5-21 and (2) students for whom English is a second language who entered school for the first time after reaching their twelfth birthday, and who have not reached twenty-two years of age on or before August 1 of the school year, for the first seven (7) months (or equivalent period) of the school year through March 31 in which state funds are distributed from this appropriation. Preschool and postgraduate students shall not be included in March 31 ADM.

a. School divisions shall take a count of September 30 fall membership and report this information to the Department of Education no later than October 15 of each year.

b. Except as otherwise provided herein, by statute, or by precedent, all appropriations to the Department of Education shall be calculated using March 31 ADM unadjusted for half-day kindergarten programs, estimated at 1,200,102 the first year and 1,207,692 the second year.

c. March 31 ADM adjusted for half-day kindergarten at 85 percent of March 31 ADM, is estimated at 1,199,370 the first year and 1,206,914 the second year.

d. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1 and who are enrolled in a public school on less than a full-time basis in any mathematics, science, English, history, social science, vocational education, health education or physical education, fine arts or foreign language course shall be counted in the funded fall membership and March 31 ADM of the relevant school division. Each course shall be counted as 0.25, up to a cap of 0.5 of a student.

e. Students enrolled in an Individualized Student Alternative Education Program (ISAEP) pursuant to § 22.1-254 D shall be counted in the March 31 Average Daily Membership of the relevant school division. School divisions shall report these students separately in their March 31 reports of Average Daily Membership.

2. "Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.

3.a. "Basic Operation Cost" - The cost per pupil, including provision for the number of instructional personnel required by the Standards of Quality for each school division with a minimum ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in March 31 ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, general administration, division superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), school nurses, operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, fixed charges and other costs in programs not funded by other state and/or federal aid.

b. The amount resulting from the support cost calculation for school nurses shall be specifically identified as such and reported to school divisions annually. School divisions will allocate these funds for licensed school nurse positions employed by the school division or for licensed nurses contracted by the local school division to provide school health services.

4.a. "Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 2/3 of the index of wealth per pupil in unadjusted March 31 ADM reported for the first seven (7) months of the 2005-2006 school year and 1/3 of the index of wealth per capita (population estimates for 2005 as determined by the Center for Public Service of the University of Virginia) multiplied by the local nominal share of the costs of the Standards of Quality of 0.45 in each year. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 2005 - 50 percent; (2) adjusted gross income for the calendar year 2005 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 2005 which are subject to the state general sales and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per March 31 ADM, or per capita, expressed as a percentage of the state average per March 31 ADM, or per capita, for the same element. A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing all payments based on the composite index of local ability-to-pay. Each constituent index element for a locality used to determine the composite index of local ability-to-pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than November 15, 2007.

b. For any locality whose total calendar year 2005 Virginia Adjusted Gross Income is comprised of at least 3 percent or more by nonresidents of Virginia, such nonresident income shall be excluded in computing the composite index of ability-to-pay. The Department of Education shall compute the composite index for such localities by using adjusted gross income data which exclude nonresident income, but shall not adjust the composite index of any other localities. The Department of Taxation shall furnish to the Department of Education such data as are necessary to implement this provision.

c.1) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions become one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be paid Standard of Quality payments for all pupils in the combined division on the basis of a composite index determined by the Board of Education, which shall not be less than the lowest nor higher than the highest composite index of any of the individual school divisions involved in such consolidation. In the event of a consolidation of local governments, this 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 figure as set forth above. The Governor shall approve the composite index determined by the Board of Education prior to disbursement of funds under such index. The department shall report to the Chairmen of the House Appropriations and Senate Finance Committees the composite indices approved by the Governor and the Board in the event this provision is implemented.

2) In the case of the consolidation of Clifton Forge and Alleghany County school divisions, the fifteen year period for the application of a new composite index pursuant to paragraph c.1) above shall apply beginning with the fiscal year that starts on July 1, 2004.

3) Pursuant to paragraph c.1) above, if the composite index of a consolidated school division is reduced during the course of the fifteen year period to a level that would entitle the school division to a lower interest rate for a Literary Fund loan than it received when the loan was originally released, the Board of Education shall reduce the interest rate of such loan for the remainder of the period of the loan. Such reduction shall be based on the interest rate that would apply at the time of such adjustment. This rate shall remain in effect for the duration of the loan and shall apply only to those years remaining to be paid.

d. When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year only in the division where the error occurred. The composite index of any other locality shall not be changed as a result of the adjustment. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.

e. In the event that any school division consolidates two or more small schools, the division shall continue to receive Standards of Quality funding and provide for the required local expenditure for a period of five years as if the schools had not been consolidated. Small schools are defined as any elementary, middle, or high school with enrollment below 200, 300 and 400 students, respectively.

5. "Required Local Expenditure for the Standards of Quality" - The locality's share based on the composite index of local ability-to-pay of the cost required by all the Standards of Quality minus its estimated revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the triennial census of school age population, as specified in this Item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins.

6. "Required Local Match" - The locality's required share of program cost based on the composite index of local ability-to-pay for all School Facilities and Incentive programs, where required, in which the school division has elected to participate in a fiscal year.

7. "Planning District Eight"--The nine localities which comprise Planning District Eight are Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

8. "State Share for the Standards of Quality" - The state share for a locality shall be equal to the cost for that locality less the locality's estimated revenues from the state sales and use tax dedicated to public education and

those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the triennial census of school age population, as specified in this Item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins and less the required local expenditure.

9. In the event that the appropriations in Item 139 and Item 140 are not sufficient to meet the entitlements payable to school divisions pursuant to the provisions of each Item, the Department of Education is authorized to transfer any available funds between these Items to address such insufficiencies. If the total appropriations after such transfers remain insufficient to meet the entitlements of any program, the Department of Education is authorized to prorate such shortfall proportionately across all of the school divisions participating in the program where such shortfall occurred.

B. General Conditions

1. The Standards of Quality cost in this Item related to fringe benefits shall be limited for instructional staff members to the employer's cost for a number not exceeding the number of instructional positions required by the Standards of Quality for each school division and for their salaries at the statewide prevailing salary levels as printed below.

| Instructional Position | First Year Salary | Second Year Salary |
|---------------------------------|-------------------|--------------------|
| Elementary Teachers | \$44,337 | \$44,337 |
| Elementary Assistant Principals | \$62,556 | \$62,556 |
| Elementary Principals | \$77,259 | \$77,259 |
| Secondary Teachers | \$46,230 | \$46,230 |
| Secondary Assistant Principals | \$66,907 | \$66,907 |
| Secondary Principals | \$84,326 | \$84,326 |
| Aides | \$15,875 | \$15,875 |

a.1) Payment by the state to a local school division shall be based on the state share of fringe benefit costs of 55 percent of the employer's cost distributed on the basis of the composite index.

2) A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing fringe benefit funds under this provision.

3) The state payment to each school division for retirement, social security, and group life insurance costs for non-instructional personnel is included in and distributed through Basic Aid.

b. Payments to school divisions from this Item shall be calculated using March 31 Average Daily Membership adjusted for half-day kindergarten programs.

c. Payments for health insurance fringe benefits are included in and distributed through Basic Aid.

2. Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.

3. In the event the statewide number of pupils in March 31 ADM exceeds the number estimated as the basis for this appropriation, the locality's state share of the Basic Operation Cost and the required local share shall be reduced proportionately so that this appropriation will not be exceeded.

4. The Department of Education shall make equitable adjustments in the computation of indices of wealth and in other state-funded accounts for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. However, only the indices of wealth and other state-funded accounts of localities party to the annexation will be adjusted.

5. In the event that the actual revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item (both of which are returned on the basis of the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year) for sales in the fiscal year in which the school year begins are different from the number estimated as the basis for this appropriation, the estimated state sales and use tax revenues shall not be adjusted.

6. This appropriation shall be apportioned to the public schools with guidelines established by the Department of Education consistent with legislative intent as expressed in this act.

7.a. Appropriations of state funds in this Item include the number of positions required by the Standards of Quality. This Item includes a minimum of 51 professional instructional positions and aide positions (C 2); Education of the Gifted, 1.0 professional instructional position (C 3); Occupational-Vocational Education Payments and Special Education Payments; a minimum of 6.0 professional instructional positions and aide positions (C 4 and C 5) for each 1,000 pupils in March 31 ADM each year in support of the current Standards of Quality. Funding in support of one hour of additional instruction per day based on the percent of students eligible for the federal free lunch program with a pupil-teacher ratio range of 18:1 to 10:1, depending upon a school division's combined failure rate on the English and Math Standards of Learning, is included in Remedial Education Payments (C8).

b. No actions provided in this section signify any intent of the General Assembly to mandate an increase in the number of instructional personnel per 1,000 students above the numbers explicitly stated in the preceding paragraph.

c. Appropriations in this Item include programs supported in part by transfers to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this Act. These transfers combined together with other appropriations from the general fund in this Item funds the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support technology position per 1,000 students; one instructional technology position per 1,000 students; and a full daily planning period for teachers at the middle and high school levels in order to relieve the financial pressure these education programs place on local real estate taxes.

8.a. The Department of Education shall make calculations at the start of the school year to ensure that school divisions have appropriated adequate funds to support their estimated required local expenditure. The Department of Education shall also make calculations after the close of the school year to verify that the required local effort level, based on actual March 31 Average Daily Membership, was met. The Department of Education shall specify the calculations to determine if a school division has appropriated and expended its required local expenditure for the Standards of Quality. This calculation may include but is not limited to the following calculations:

b. The total expenditures for operation, defined as total expenditures less all capital outlays, expenditures for debt service, facilities, non-regular day school programs (such as adult education, preschool, and non-local education programs), and any transfers to regional programs or escrow accounts will be calculated.

c. The following state funds will be deducted from the amount calculated in paragraph a. above: revenues from the state sales and use tax (returned on the basis of the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year, as specified in this Item) for sales in the fiscal year in which the school year begins; total receipts from state funds (except state funds for non-regular day school programs and state funds used for capital or debt service purposes); and the state share of any balances carried forward from the previous fiscal year. Any qualifying state funds that remain unspent at the end of the fiscal year will be added to the amount calculated in paragraph a. above.

d. Federal funds, and any federal funds carried forward from the previous fiscal year, will also be deducted from the amount calculated in paragraph a above.. Any federal funds that remain unspent at the end of the fiscal year and any capital expenditures paid from federal funds will be added to the amount calculated in paragraph a. above.

e. Tuition receipts, receipts from payments from other cities or counties, and fund transfers will also be deducted from the amount calculated in paragraph a, then

f. The final amount calculated as described above must be equal to or greater than the required local expenditure defined in paragraph A. 5.

g. The Department of Education shall collect the data necessary to perform the calculations of required local expenditure as required by this section.

h. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures unless it first complies with all of the Standards of Quality.

9.a. Any sum which a locality, as of the end of a school year, has not expended, pursuant to this Item, for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.

b. Whenever the Department of Education has recovered funds as defined in the preceding paragraph a, the Secretary of Education is authorized to repay to the locality affected by that action, seventy-five percent (75%) of those funds upon his determination that:

1) The local school board agrees to include the funds in its June 30 ending balance for the year following that in which the under expenditure occurs;

2) The local governing body agrees to reappropriate the funds as a supplemental appropriation to the approved budget for the second year following that in which the under expenditure occurs, in an appropriate category as requested by the local school board, for the direct benefit of the students;

3) The local school board agrees to expend these funds, over and above the funds required to meet the required local expenditure for the second year following that in which the under expenditure occurs, for a special project, the details of which must be furnished to the Department of Education for review and approval;

4) The local school board agrees to submit quarterly reports to the Department of Education on the use of funds provided through this project award; and

5) The local governing body and the local school board agree that the project award will be cancelled and the funds withdrawn if the above conditions have not been met as of June 30 of the second year following that in which the under expenditure occurs.

c. There is hereby appropriated, for the purposes of the foregoing repayment, a sum sufficient, not to exceed 75

percent of the funds deposited in the general fund pursuant to the preceding paragraph a.

10. The Department of Education shall specify the manner for collecting the required information and the method for determining if a school division has appropriated and expended the local funds required to support the actual local match based on all School Facilities and Incentive programs in which the school division has elected to participate. Unless specifically stated otherwise in this Item, school divisions electing to participate in any School Facilities or Incentive program that requires a local funding match in order to receive state funding, shall certify to the Department of Education its intent to participate in each program by October 1 each fiscal year in a manner prescribed by the Department of Education. Upon receipt of the certifications, the Department of Education shall make calculations to ensure that school divisions have appropriated adequate local funds, above the required local effort for the Standards of Quality, to support the projected required local match based on the School Facilities and Incentive programs in which the school division has elected to participate. If the Department of Education's calculations indicate that insufficient local funds are appropriated to meet the required local funding match for one or more programs, state funding for such program(s) shall not be made until such time that the school division can certify that sufficient local funding has been appropriated to meet required local match. The Department of Education shall also make calculations after the close of the fiscal year to verify that the required local match was met based on the state funds that were received.

11. Any sum of local matching funds for School Facilities and Incentive program which a locality has not expended as of the end of a fiscal year in support of the required local match pursuant to this Item shall be paid by the locality into the general fund of the state treasury unless the carryover of those unspent funds is specifically permitted by other provisions of this act. Such payments shall be made no later than the end of the school year following that in which the under expenditure occurred.

12. The Superintendent of Public Instruction shall provide a report annually on the status of teacher salaries, by local school division, to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees.

13. All local matching funds required by the programs in this Item shall be appropriated to the budget of the local school board.

14. By November 15 of each year, the Department of Planning and Budget, in cooperation with the Department of Education, shall prepare and submit a preliminary forecast of Standards of Quality expenditures, based upon the most current data available, to the Chairmen of the House Appropriations and Senate Finance Committees. In odd-numbered years, the forecast for the current and subsequent two fiscal years shall be provided. In even-numbered years, the forecast for the current and subsequent fiscal year shall be provided. The forecast shall detail the projected March 31 Average Daily Membership and the resulting impact on the education budget.

15. School divisions may choose to use state payments provided for Standards of Quality prevention, intervention, and remediation in both years as a block grant for remediation purposes, without restrictions or reporting requirements, other than reporting necessary as a basis for determining funding for the program.

16. Except as otherwise provided in this act, the Superintendent of Public Instruction shall provide guidelines for the distribution and expenditure of general fund appropriations and such additional federal, private and other funds as may be made available to aid in the establishment and maintenance of the public schools.

17. At the Department of Education's option, fees for audio-visual services may be deducted from state aid payments for individual local school divisions.

18. For distributions not otherwise specified, the Department of Education, at its option, may use prior year data to calculate actual disbursements to individual localities.

19. Payments for accounts related to the Standards of Quality made to localities for public education from the general fund, as provided herein, shall be payable in twenty-four approximately equal bimonthly installments at the middle and end of each month.

20. The Department of Education shall, for purposes of calculating the state and local shares of the Standards of Quality, apportion state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund based on the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year of the biennium.

The State Comptroller shall distribute the state sales and use tax revenues dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund based on the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year of the biennium.

21. In the second year, the school divisions within the Tobacco Region, as defined by the Tobacco Indemnification and Community Revitalization Commission, shall jointly explore ways to maximize their collective expenditure reimbursement totals for all eligible E-Rate funding.

C. Apportionment

1. Subject to the conditions stated in this paragraph and in paragraph B of this Item, each locality shall receive sums as listed above within this program for the basic operation cost and payments in addition to that cost. The apportionment herein directed shall be inclusive of, and without further payment by reason of, state funds for library and other teaching materials.

2. School Employee Retirement Contributions

a. This Item provides funds to each local school board for the state share of the employer's retirement cost incurred by it, on behalf of instructional personnel, for subsequent transfer to the retirement allowance account as provided by Title 51.1, Chapter 1, Code of Virginia.

b. Notwithstanding § 51.1-1401 of the Code of Virginia, the Commonwealth shall provide payments for only the state share of the Standards of Quality fringe benefit cost of the retiree health care credit. This Item includes payments in both years based on the state share of fringe benefit costs of 55 percent of the employer's cost on funded Standards of Quality instructional positions, distributed based on the composite index of the local ability-to-pay.

c. As a part of the review of the Virginia Retirement System pursuant to House Joint Resolution No. 34 the joint subcommittee shall review: 1) the Commonwealth's responsibilities for funding the teacher retirement system beyond the actuarial normal rate and 2) the Commonwealth's appropriate share for retirement payments by school divisions. In making this review, the joint subcommittee shall review the impact of the blended retirement rates on the retirement system, school divisions, and the Commonwealth.

d. Appropriations for contributions in Paragraphs 2 include payments from funds derived from the principal of the Literary Fund in accordance with Article VIII, Section 8, of the Constitution of Virginia. The amounts set aside from the Literary Fund for these purposes are approximately \$171,128,935 the first year and \$91,128,935 the second year.

3. School Employee Social Security Contributions

This Item provides funds to each local school board for the state share of the employer's Social Security cost

incurred by it, on behalf of the instructional personnel for subsequent transfer to the Contribution Fund pursuant to Title 51.1, Chapter 7, Code of Virginia.

4. School Employee Insurance Contributions

This Item provides funds to each local school board for the state share of the employer's Group Life Insurance cost incurred by it on behalf of instructional personnel who participate in group insurance under the provisions of Title 51.1, Chapter 5, Code of Virginia.

5. Basic Aid Payments

a.1) A state share of the Basic Operation Cost, which cost per pupil in March 31 ADM is established individually for each local school division based on the number of instructional personnel required by the Standards of Quality and the statewide prevailing salary levels (adjusted in Planning District Eight for the cost of competing) as well as recognized support costs calculated on a prevailing basis for an estimated March 31 ADM (adjusted for half-day kindergarten programs).

2) This appropriation includes funding to recognize the common labor market in the Washington -Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area. Standards of Quality salary payments for instructional and support positions in school divisions of the localities set out below have been adjusted for the equivalent portion of the Cost of Competing Adjustment (COCA) rates that are paid to local school divisions in Planning District 8. For the counties of Stafford, Fauquier, Spotsylvania, Clarke, Warren, Frederick, and Culpeper and the Cities of Fredericksburg and Winchester, the SOQ payments have been increased by 25 percent each year of the COCA rates paid to school divisions in Planning District 8.

b.1) The state share for a locality shall be equal to the Basic Operation Cost for that locality less the locality's estimated revenues from the state sales and use tax (returned on the basis of the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year, as specified in this Item), in the fiscal year in which the school year begins and less the required local expenditure.

2) In addition to this appropriation, \$264,789,786 the first year and \$264,789,786 the second year are transferred from Lottery Funds appropriated in this Item pursuant to paragraph 28.b.1) to Basic Aid Payments to provide for the state share of the Basic Operations Cost as defined in paragraphs a. and b.1) above.

c. For the purpose of this paragraph, the Department of Taxation's fiscal year sales and use tax estimates are as cited in this Item.

d.1) In accordance with the provisions of §§ [22.1-281](#) and 37.1-96, Code of Virginia, the Department of Education shall deduct the locality's share for the education of handicapped pupils residing in institutions within the Department of Mental Health, Mental Retardation and Substance Abuse Services from the locality's Basic Aid appropriation.

2) The amounts deducted from Basic Aid for the education of mentally retarded persons shall be transferred to the Department of Mental Health, Mental Retardation and Substance Abuse Services in support of the cost of educating such persons; the amount deducted from Basic Aid for the education of emotionally disturbed persons shall be used to cover extraordinary expenses incurred in the education of such persons. The Department of Education shall establish guidelines to implement these provisions and shall provide for the periodic transfer of sums due from each local school division to the Department of Mental Health, Mental Retardation and Substance Abuse Services and for Special Education categorical payments. The amount of the actual transfers will be based on data accumulated during the prior school year.

e.1) The apportionment to localities of all driver education revenues received during the school year shall be made

as an undesignated component of the state share of the basic operation cost in accordance with the provisions of this Item. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of state funds appropriated for driver education. The Department of Education will deduct a designated amount per pupil from a school division's Basic Aid payment when the school division is not in compliance with § 22.1-205 C, Code of Virginia. Such amount will be computed by dividing the current appropriation for the Driver Education Fund by actual March 31 ADM.

2) Local school boards may charge a per pupil fee for behind-the-wheel driver education provided, however, that the fee charged plus the per pupil basic aid reimbursement for driver education shall not exceed the actual average per pupil cost. Such fees shall not be cause for a pro rata reduction in Basic Aid payments to school divisions.

f. Textbooks

1) The appropriation in this Item includes \$80,256,306 the first year and \$80,555,120 the second year from the general fund as the state's share of the cost of textbooks based on a per pupil amount of \$119.39 the first year and \$119.39 the second year. The state's distributions for textbooks shall be based on adjusted March 31 ADM.

2) School divisions shall provide free textbooks to all students.

3) School divisions may use a portion of this funding to purchase Standards of Learning instructional materials.

4) Any funds provided to school divisions for textbook costs that are unexpended as of June 30, 2009, or June 30, 2010, shall be carried on the books of the locality to be appropriated to the school division the following year to be used for same purpose.

g. The one-cent state sales and use tax earmarked for education and the sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item which are distributed to localities on the basis of the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year as specified in this Item shall be reflected in each locality's annual budget for educational purposes as a separate revenue source for the then current fiscal year.

h. The appropriation for the Standards of Quality for Public Education (SOQ) includes amounts estimated at \$242,050,000 the first year and \$255,750,000 the second year from the amounts transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this Act which are derived from the 1/4 cent increase in the state sales and use tax levied pursuant to Chapter 3, 2004 Special Session I. These additional funds are provided to local school divisions and local governments in order to relieve the financial pressure education programs place on local real estate taxes.

i. From the total amounts in paragraph h. above, an amount estimated at \$121,950,000 the first year and \$128,850,000 the second year (approximately 1/8 cent of sales and use tax) is appropriated to support a portion of the cost of the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support and one instructional technology position per 1,000 students; a full daily planning period for teachers at the middle and high school levels in order to relieve the pressure on local real estate taxes and shall be taken into account by the governing body of the county, city, or town in setting real estate tax rates.

j. From the total amounts in paragraph h. above, an amount estimated at \$120,100,000 the first year and \$126,900,000 the second year (approximately 1/8 cent of sales and use tax) is appropriated in this Item to distribute the remainder of the revenues collected and deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund on the basis of the 2005 triennial census of school age population in the first year and the 2008 triennial census in the second year as specified in this Item.

6. Compensation Supplements

a. The appropriation in this Item includes \$130,564,600 the second year from the general fund for an equivalent payment for the following salary increase and related fringe benefit costs for funded SOQ instructional and support positions and other funded incentive program positions:

1) For the second year, the state share of a payment equivalent to a 3.0 percent salary increase effective July 1, 2009, for all funded positions.

2) For the second year, the state share of a payment equivalent to an additional 0.5 percent salary increase effective July 1, 2009, for funded SOQ instructional positions only. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in both years of the biennium.

3) It is the intent of the General Assembly that the average instructional position salaries be improved throughout the state by at least 3.5 percent the second year. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 3.0 percent salary increase for all funded positions and an additional 0.5 percent for funded SOQ instructional positions effective July 1, 2009, to school divisions which certify to the Department of Education, no later than December 1, 2009, that equivalent increases have been granted in the second year.

b. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.

c. This funding is not intended as a mandate to increase salaries.

7. Education of the Gifted Payments

a. An additional payment shall be disbursed by the Department of Education to local school divisions to support the state share of one full-time equivalent instructional position per 1,000 students in adjusted March 31 ADM.

b. Local school divisions are required to spend, as part of the required local expenditure for the Standards of Quality the established per pupil cost for gifted education (state and local share) on approved programs for the gifted.

8. Occupational-Vocational Education Payments

a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Vocational Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.

b. An amount estimated at \$110,339,507 the first year and \$111,149,327 the second year from the general fund included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.

9. Special Education Payments

a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Special Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.

b. Out of the amounts for special education payments, general fund support is provided to fund the caseload standards for speech pathologists at 68 students for each year of the biennium.

10. Enrollment Loss

An additional state payment in each year equal to the state share per pupil of Basic Aid for each locality, for a percentage of the enrollment loss (as determined below) in March 31 ADM from the prior year.

| Composite Index | Percentage |
|-----------------|------------|
| 0.0000-0.1999 | 85% |
| 0.2000-0.3499 | 70% |
| 0.3500-0.4999 | 45% |
| 0.5000 or more | 30% |

11. Remedial Education Payments

a. An additional payment estimated at \$69,746,251 the first year and \$69,562,725 the second year from the general fund shall be disbursed by the Department of Education to support the Board of Education's Standards of Quality prevention, intervention, and remediation program adopted in June 2003.

b. The payment shall be calculated based on one hour of additional instruction per day for identified students, using the three year average percent of students eligible for the federal Free Lunch program as a proxy for students needing such services. Fall membership shall be multiplied by the three year average division-level Free Lunch eligibility percentage to determine the estimated number of students eligible for services. Pupil-teacher ratios shall be applied to the estimated number of eligible students to determine the number of instructional positions needed for each school division. The pupil-teacher ratio applied for each school division shall range from 10:1 for those divisions with the most severe combined three year average failure rates for English and math Standards of Learning test scores to 18:1 for those divisions with the lowest combined three year average failure rates for English and math Standards of Learning test scores.

c. Funding shall be matched by the local government based on the composite index of local ability-to-pay.

d. An amount estimated at \$19,517,499 the first year and \$19,517,499 the second year for Lottery proceeds appropriated in this act shall be added to general funds appropriated in this Item, to provide for the state share of the Standards of Quality prevention, intervention, and remediation program.

e. An additional state payment estimated at \$67,237,504 the first year and \$66,789,153 the second year from the general fund shall be disbursed based on the estimated number of federal Free Lunch participants, in support of programs for students who are educationally at risk. The additional payment shall be based on the state share of:

- 1) A minimum one percent add-on, as a percent of the per pupil basic aid cost, for each child who qualifies for the federal Free Lunch Program; and
- 2) An addition to the add-on, based on the concentration of children qualifying for the federal Free Lunch Program. Based on its percentage of Free Lunch participants, each school division will receive between 1 and 12 percent in additional basic aid per Free Lunch participant. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.

3a) Local school divisions are required to spend the established at-risk payment (state and local share) on approved

programs for students who are educationally at risk.

b) To receive these funds, each school division shall certify to the Department of Education that the state and local shares of the at-risk payment will be used to support approved programs for students who are educationally at risk. These programs may include: Dropout Prevention, community and school-based truancy officer programs, Advancement Via Individual Determination (AVID), Project Discovery, Reading Recovery, programs for students who speak English as a second language, or programs related to increasing the success of disadvantaged students in completing a high school degree and providing opportunities to encourage further education and training. Further, any new funds a school division receives in excess of the amounts received in fiscal year 2008 shall be used first to provide data coordinators consistent with the provisions described in paragraph C.35. of this Item or to purchase similar services for schools that have not met Adequate Yearly Progress (AYP) under the federal No Child Left Behind Act or are not fully accredited under the Standards of Accreditation.

f. Regional Alternative Education Programs

1) An additional state payment of \$6,770,996 the first year and \$7,209,098 the second year from the general fund shall be disbursed for regional alternative education programs. Such programs shall be for the purpose of educating certain expelled students and, as appropriate, students who have received suspensions from public schools and students returned to the community from the Department of Juvenile Justice.

2) Each regional program shall have a small student/staff ratio. Such staff shall include, but not be limited to education, mental health, health, and law enforcement professionals, who will collaborate to provide for the academic, psychological and social needs of the students. Each program shall be designed to ensure that students make the transition back into the "mainstream" within their local school division.

3)a) Regional alternative education programs are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs. This incremental per pupil payment shall be adjusted for the composite index of local ability-to-pay of the school division that counts such students attending such program in its March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the regional programs for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the school day or school year that the student does not attend such program.

b) In the event a school division does not use all of the student slots it is allocated under this program, the unused slots may be reallocated or transferred to another school division.

1. A school division must request from the Department of Education the availability and possible use of any unused student slots. If any unused slots are available and if the requesting school division chooses to utilize any of the unused slots, the requesting school division shall only receive the state's share of tuition for the unused slot that was allocated in this Item for the originally designated school division.

2. However, no requesting school division shall receive more tuition funding from the state for any requested unused slot than what would have been the calculated amount for the requesting school division had the unused slot been allocated to the requesting school division in the original budget. Furthermore, the requesting school division shall pay for any remaining tuition payment necessary for using a previously unused slot.

3. The Department of Education shall report by June 30 each year, to the Chairmen of the House Appropriations and Senate Finance Committees, the number of available student slots, students placed, the request of unused slots, and the number of unused slots subsequently used by each school division for each Regional Alternative Education program.

4) The Department of Education shall provide assistance for the state share of the incremental cost of regional alternative education program operations based on the composite index of local ability-to-pay.

g. Remedial Summer School

1) This appropriation includes \$28,853,206 the first year and \$30,083,600 the second year from the general fund for the state's share of Remedial Summer School Programs. These funds are available to school divisions for the operation of programs designed to remediate students who are required to attend such programs during a summer school session or during an intersession in the case of year-round schools. These funds may be used in conjunction with other sources of state funding for remediation or intervention. School divisions shall have maximum flexibility with respect to the use of these funds and the types of remediation programs offered; however, in exercising this flexibility, students attending these programs shall not be charged tuition and no high school credit may be awarded to students who participate in this program.

2) For school divisions charging students tuition for summer high school credit courses, consideration shall be given to students from households with extenuating financial circumstances who are repeating a class in order to graduate.

12. Primary Class Size Payments

a. An additional payment estimated at \$93,016,112 the first year and \$92,676,268 the second year from the general fund shall be disbursed by the Department of Education as an incentive payment for reducing class sizes in the primary grades.

b. The Department of Education shall calculate the payment based on the incremental cost of providing the lower class sizes based on the lower of the division average per pupil cost of all divisions or the actual division per pupil cost.

c. Localities are required to provide a match for these funds based on the composite index of local ability-to-pay.

d. By October 15 of each year school divisions must provide data to the Department of Education that each participating school has a September 30 pupil/teacher ratio in grades K through 3 that meet the following criteria:

Qualifying School Percentage of Students Approved

| | Grades K-3 | Maximum Individual |
|-------------------------|--------------|--------------------|
| Eligible for Free Lunch | School Ratio | Class Size |
| 16% but less than 30% | 20 to 1 | 25 |
| 30% but less than 45% | 19 to 1 | 24 |
| 45% but less than 55% | 18 to 1 | 23 |
| 55% but less than 65% | 17 to 1 | 22 |
| 65% but less than 70% | 16 to 1 | 21 |
| 70% but less than 75% | 15 to 1 | 20 |
| 75% or more | 14 to 1 | 19 |

e. School divisions may elect to have eligible schools participate at a higher ratio, or only in a portion of grades kindergarten through three, with a commensurate reduction of state and required local funds, if local conditions do not permit participation at the established ratio and/or maximum individual class size. Special education teachers shall not be counted towards meeting these required pupil/teacher ratios in grades kindergarten through three.

f. The Superintendent of Public Instruction may grant waivers to school divisions for the class size requirement in eligible schools that have only one class in an affected grade level in the school.

13. Literary Fund Subsidy Program

a. The Board of Education and the Virginia Public School Authority (VPSA) shall provide a program of funding for school construction and renovation through the Literary Fund and through VPSA bond sales. The program shall be used to provide funds, through Literary Fund loans and subsidies, and through VPSA bond sales, to fund a portion of the projects on the First or Second Literary Fund Waiting List, or other critical projects which may receive priority placement on the First or Second Literary Fund Waiting List by the Board of Education. Interest rate subsidies will provide school divisions with the present value difference in debt service between a Literary Fund loan and a borrowing through the VPSA. To qualify for an interest rate subsidy, the school division's project must be eligible for a Literary Fund loan and shall be subject to the same restrictions. The VPSA shall work with the Board of Education in selecting those projects to be funded through the interest rate subsidy/bond financing program, so as to ensure the maximum leverage of Literary Fund moneys and a minimum impact on the VPSA Bond Pool.

b. The Virginia Public School Authority shall provide an interest rate subsidy program in fiscal year 2009 and fiscal year 2010 for projects that are on the Board of Education's First Priority Waiting List. Projects on the Literary Fund Second Priority Waiting List may participate in the Interest Rate Subsidy Program if unused subsidy appropriation remains once the participation of projects on the First Priority Waiting List is confirmed. However, the cost of the subsidy shall not exceed \$20,000,000 in the first year and \$15,000,000 in the second year including the subsidy payments and related issuance costs.

c. The Board of Education may offer Literary Fund loans from the uncommitted balances of the Literary Fund after meeting the obligations of the interest rate subsidy sales and the amounts set aside from the Literary Fund for Debt Service Payments for Education Technology in this Item.

d.1) In the event that on any scheduled payment date of bonds of the Virginia Public School Authority (VPSA) authorized under the provisions of a bond resolution adopted subsequent to June 30, 1997, issued subsequent to June 30, 1997, and not benefiting from the provisions of either § 22.1-168 (iii), (iv), and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the sum of (i) the payments on general obligation school bonds of cities, counties, and towns (localities) paid to the VPSA and (ii) the proceeds derived from the application of the provisions of § 15.2-2659, Code of Virginia, to such bonds of localities, is less than the debt service due on such bonds of the VPSA on such date, there is hereby appropriated to the VPSA, first, from available moneys of the Literary Fund and, second, from the general fund a sum equal to such deficiency.

2) The Commonwealth shall be subrogated to the VPSA to the extent of any such appropriation paid to the VPSA and shall be entitled to enforce the VPSA's remedies with respect to the defaulting locality and to full recovery of the amount of such deficiency, together with interest at the rate of the defaulting locality's bonds.

e. The chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds of the VPSA issued and projected to be issued during such biennium pursuant to the bond resolution referred to in paragraph a above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.

14. Educational Technology Payments

a. Any unobligated amounts transferred to the educational technology fund shall be disbursed on a pro rata basis to localities. The additional funds shall be used for technology needs identified in the division's technology plan approved by the Department of Education.

b. The Board of Education shall provide amounts estimated at \$12,656,800 the first year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2004.

c. The Board of Education shall provide amounts estimated at \$12,634,750 the first year and \$12,636,750 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2005.

d.1) The Board of Education shall provide amounts estimated at \$12,821,000 the first year and \$12,822,250 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2006.

2) It is the intent of the General Assembly to appropriate Literary Fund revenues sufficient to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2010-12 biennial budget for public education, the Board of Education shall include a recommendation to the Governor to appropriate Literary Fund revenues sufficient to make debt service payments for this program in fiscal year 2011.

e.1) The Board of Education shall provide amounts estimated at \$12,986,500 the first year and \$12,977,250 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2007.

2) It is the intent of the General Assembly to appropriate Literary Fund revenues sufficient to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2010-12 biennial budget for public education, the Board of Education shall include a recommendation to the Governor to appropriate Literary Fund revenues sufficient to make debt service payments for this program in fiscal year 2011 and fiscal year 2012.

f.1) The Board of Education shall provide amounts estimated at \$13,483,288 the first year and \$13,485,869 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2008.

2) It is the intent of the General Assembly to appropriate Literary Fund revenues sufficient to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2010-12 and 2012-14 biennial budgets for public education, the Board of Education shall include a recommendation to the Governor to appropriate Literary Fund revenues sufficient to make debt service payments for this program in fiscal years 2011, 2012, and 2013.

g.1) An education technology grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at \$60,184,000 in fiscal year 2009 and \$60,496,000 in fiscal year 2010. Proceeds of the notes will be used to establish a computer-based instructional and testing system for the Standards of Learning (SOL) and to develop the capability for high speed Internet connectivity at high schools followed by middle schools followed by elementary schools.

2) The Board of Education shall provide amounts estimated at \$13,485,869 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia

Public School Authority in fiscal year 2009.

3) It is the intent of the General Assembly to appropriate Literary Fund revenues sufficient to pay debt service on the Virginia Public School Authority bonds or notes authorized for education technology grant programs in fiscal year 2009 and in fiscal year 2010. In developing the proposed 2010-12, 2012-2014, and 2014-2016 biennial budgets for public education, the Board of Education shall include a recommendation to the Governor to appropriate Literary Fund revenues sufficient to make debt service payments for these programs in fiscal years 2011, 2012, 2013, 2014, and 2015.

4) Grant funds from the issuance of \$60,184,000 in fiscal year 2009 and \$60,496,000 in fiscal year 2010 in equipment notes are based on a grant of \$26,000 per school and \$50,000 per school division. For purposes of this grant program, eligible schools shall include those reporting membership in grades K through 12 as of September 30, 2008, for the fiscal year 2009 issuance, and September 30, 2009, for the fiscal year 2010 issuance as well as district and regional centers including vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, and the Schools for the Deaf and the Blind. Schools and district centers that serve only pre-kindergarten students shall not be eligible for this grant.

5) Localities are required to provide a match for these funds equal to 20 percent of the grant amount. At least 25 percent of the local match shall be used for teacher training in the use of technology. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Schools for the Deaf and the Blind are exempt from the match requirement.

6) The goal of the program is to improve the instructional, remedial and testing capabilities of the Standards of Learning for local school divisions.

7) Funds shall be used in the following manner:

a) Each division shall use funds to reach a goal, in each high school, of: (1) a 5-to-1 student to computer ratio; (2) an Internet-ready local area network (LAN) capability; and (3) high speed access to the Internet. School connectivity (computers, LANs and network access) shall include sufficient download/upload capability to ensure that each student will have adequate access to Internet-based instructional, remedial and assessment programs.

b) When each high school in a division meets the goals established in paragraph a) above, the remaining funds shall be used to develop similar capability in first the middle schools and then the elementary schools.

c) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.

8) Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.

h. The Department of Education shall maintain criteria to determine if high schools, middle schools, or elementary schools have the capacity to meet the goals of this initiative. The Department of Education shall be responsible for the project management of this program. The Department of Education shall report on the implementation of this program to the Chairmen of the Senate Finance and House Appropriations Committees by September 1 of each year.

i.1) In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority (VPSA) issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the

Literary Fund are less than the appropriations for debt service due on such bonds or notes of the VPSA on such date, there is hereby appropriated to the VPSA from the general fund a sum equal to such deficiency.

2) The Chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes of the VPSA issued and projected to be issued during such biennium pursuant to the resolution referred to in paragraph 1) above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.

j. Unspent proceeds of the notes, including investment income derived from the proceeds of the notes may be used to pay interest on, or to decrease principal of the notes.

k.1) For the purposes of § 56-232, Code of Virginia, "Contracts of Telephone Companies with State Government" and for the purposes of § 56-234 "Contracts for Service Rendered by a Telephone Company for the State Government" shall be deemed to include communications lines into public schools which are used for educational technology. The rate structure for such lines shall be negotiated by the Superintendent of Public Instruction and the Chief Information Officer of the Virginia Information Technologies Agency. Further, the Superintendent and Director are authorized to encourage the development of "by-pass" infrastructure in localities where it fails to obtain competitive prices or prices consistent with the best rates obtained in other parts of the state.

2) The State Corporation Commission, in its consideration of the discount for services provided to elementary schools, secondary schools, and libraries and the universal service funding mechanisms as provided under § 254 of the Telecommunications Act of 1996, is hereby encouraged to make the discounts for intrastate services provided to elementary schools, secondary schools, and libraries for educational purposes as large as is prudently possible and to fund such discounts through the universal fund as provided in § 254. The Commission shall proceed as expeditiously as possible in implementing these discounts and the funding mechanism for intrastate services, consistent with the rules of the Federal Communications Commission aimed at the preservation and advancement of universal service.

15. Virginia Preschool Initiative

a.1) It is the intent of the General Assembly that an additional payment shall be disbursed by the Department of Education to school divisions, local governments, or community-based providers, which may include private providers, to provide quality preschool programs for at-risk four-year-olds unserved by Head Start program funding. It is the further intent of the General Assembly that by fiscal year 2012, all providers of state-funded preschool programs, whether public or private, shall demonstrate the quality of their programs by participating in the Quality Rating and Improvement System (QRIS).

2) These grants shall be used to provide comprehensive programs for at-risk four-year-old children which include quality preschool education, health services, social services, parental involvement, and transportation. Programs must provide full-day or half-day and, at least, school-year services.

3) The Department of Education shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter into kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be evaluated at specified times as determined appropriate by the Department of Education.

4) Superintendents of each participating school division or the chief administrators of each participating local government, or their respective designee, must certify that the Virginia Preschool Initiative program follows the established standards and criteria for the service components in order to receive the funding for quality preschool

education. Such guidelines shall be consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs and provisions of Section [22.1-199.1 C.](#), *Code of Virginia*.

b.1) Funding provided to school divisions or local governments shall be distributed based on an allocation formula providing the state share of per pupil funding ranging from \$5,700 to \$6,790 per pupil for unserved at-risk four-year-olds in each locality for a full-day program. Federal free and reduced-priced lunch program eligibility data from the 2006-2007 school year is used as the at-risk criterion in the funding formula for determining the number of at-risk four-year-olds. For purposes of the allocation formula, a child shall be considered at-risk if he or she qualifies for the Federal free or reduced-price lunch program.

2) A minimum of nine student slots per grantee are funded to ensure that at least one preschool classroom is funded in each locality. School divisions or local governments must apply for the amount of requested per pupil funding to be received in the following fiscal year through the funding allocations in paragraphs c.1) through c.3) in the required program application due to the Department of Education on May 15 of each year.

3) Applicants for funding must certify the per pupil amount for which they are applying within the range of \$5,700 to \$6,790 per pupil and they must certify that the required matching funds will be obligated for the selected per pupil amount and the number of slots for which they are applying. In determining the state and local shares of funding, the composite index of local ability-to-pay is capped at 0.5000. No tuition shall be charged by public or private providers for the instructional services supported by this program.

4) Programs provided by school divisions or local governments operating half-day shall receive state funds based on a fractional basis determined by the pro-rata portion of a full-day, school year program that is provided. For new programs in the first year of implementation only, programs operating less than a full school year shall receive state funds on a fractional basis determined by the pro-rata portion of a school year program that is provided. In determining the prorated state funds to be received, a full day program shall be 5.5 hours of instructional time and a school year shall be 180 days.

5) A required local match, based on the composite index of local ability-to-pay capped at 0.5000, shall be required for school division and local government grantees. For purposes of meeting the local match, localities may use local expenditures for existing qualifying programs. In-kind contributions of local funds may be applied to meet up to 25 percent of the required local match amount. Private funds contributed for use in the program qualify as local funds toward meeting the required local match. The applicant must certify the amount and source of any private funds.

6) To receive funding, school divisions or local governments are required to submit a report to the Department of Education by October 15 each year certifying the total number of eligible four-year-old children served in preschool programs that meet all standards and requirements of this program for the current fiscal year. The number of eligible students submitted in this report will be used in calculating the funding allocations pursuant to paragraphs c.1) through c.3).

7) Within a local school division or locality, at least 10 percent of any additional student slots funded each year above the number of slots served in fiscal year 2008 must be offered to local private providers through a locally established public-private partnership. School divisions and local governments are waived from this requirement when no QRIS rated private preschool programs serving four-year-old children exist in the locality or no private provider agrees to participate. This requirement does not apply when the total number of funded slots in either year is less than 10. Compliance with this requirement must be certified in the application submitted to the Department of Education by May 15 each year and/or in the enrollment report submitted to the department by October 15 each year. Where a local public-private partnership is established and student slots are utilized in private provider settings, school division or local government grantees are required to serve as the fiscal agent for any public funds received and are required to provide on-going program monitoring and oversight of the private

provider.

c. The Department of Education is authorized to distribute state or federal funding to eligible school divisions or local governments under this program in the following manner:

1) An initial allocation of student slots incorporating the provisions of paragraphs b.1) through b.7) and the actual number of funded student slots determined based on an estimated participation factor;

2) a) If a balance of funds remains after the allocations authorized in c.1) are claimed, additional funds may be allocated with the intent to provide school divisions or local governments the same amount of funding in both years that they received in state funds under the program in fiscal year 2008. Eligible school divisions or local governments may receive additional funding not to exceed the amount of state funding they received under the program in fiscal year 2008 based on the certified number of eligible students served in a qualifying program as reported to the Department of Education by October 15 each year. The number of students reported on the October 15 report must be served in a preschool program that meets all standards and requirements of this program. Any additional student slots funded through this allocation are not subject to the 10 percent private placement requirement in paragraph b.7).

b) If there are no balances after the allocations are claimed in paragraph c.1) above, a school division receiving less funds than it was paid in fiscal year 2008 shall be adjusted to the amount paid in fiscal year 2008 if it is serving at least the same number of students served in fiscal year 2008. The resulting payment for the remaining school divisions shall be prorated proportionally if funds are not sufficient to fully fund all allocations of additional funding resulting from this calculation.

3) If a balance of funds remains after the allocation authorized in c.2) is completed, additional funds may be allocated with the intent to provide school divisions or local governments funding for additional student slots beyond those provided through the initial allocation in c.1). Eligible school divisions or local governments may receive additional funding for additional student slots based on the state share of \$5,700 to \$6,790 per pupil not to exceed their total student slot allocation assuming a 100 percent participation rate applied to the funding formula and based on the certified number of eligible students served as reported by October 15 each year. The number of students reported on the October 15 report must be served in a preschool program that meets all standards and requirements of this program. Any additional student slots funded in this allocation are not subject to the 10 percent private placement requirement in paragraph b.7). Under this allocation, payments will be prorated proportionally if funds are not sufficient to fully fund all requests for additional funding.

d.1) If a balance of funds remains after the allocations authorized in c.1) through c.3) are completed each year, an allocation of per pupil funds may be provided directly to private preschool providers. Notification will be provided to private preschool providers statewide in the event funds are available for allocation under this paragraph.

2) Funds under this paragraph will be provided on a competitive application basis using criteria determined by the Department of Education and the Department of Social Services. Private providers requesting per pupil funds may apply to receive the lesser of the state share of \$6,790 per pupil or the state share of the actual per student tuition cost currently charged for the private program.

3) The state share of per pupil payments will be based on the composite index of local ability-to-pay of the school division in which the private provider is located not to exceed 0.5000. Demonstration of private matching funds from sources other than parent paid tuition shall be required. The funds will be paid directly to the private preschool provider to provide preschool services to four-year-old children, with priority given to at-risk children. The funds shall be used to directly off-set the per student tuition cost of four-year-old children attending private preschool programs in order to facilitate participation of at-risk four-year-old children. Per pupil payments will be prorated for instructional services provided for only part of the state fiscal year or part of a full instructional day. Under this allocation, applications shall be reviewed and ranked by the Department of Education based upon

criteria that it establishes for these competitive grants. Grants shall be awarded in rank order in a manner that does not exceed the available funds. Private providers requesting funding under this paragraph must submit an application to the Department of Education by a date determined by the department.

e.1) Any school division or local government which desires to participate in this program must submit an application through its Superintendent or the chief administrative officer of the local government by May 15 of each year. If a joint application is submitted, the chief administrator, in conjunction with the school superintendent, shall identify a lead agency for this program within the locality. The lead agency shall be responsible for developing a local plan for the delivery of quality preschool services to at-risk children which demonstrates the coordination of resources and the combination of funding streams in an effort to serve the greatest number of at-risk four-year-old children.

2) The local application must demonstrate coordination with all parties necessary for the successful delivery of comprehensive services, including the schools, child care providers, local social services agency, Head Start, local health department, and other groups identified by the lead agency.

3) School divisions and local governments shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program must be used to supplement, not supplant, any funds currently provided for programs within the locality. However, in the event a locality is prohibited from continuing the previous level of support to programs for at-risk four-year-olds from Title 1 of the Elementary and Secondary Education Act (ESEA), the state and local funds provided in this grants program may be used to continue services to these Title I students. Such prohibition may occur due to amendments to the allocation formula in the reauthorization of ESEA as the No Child Left Behind Act of 2001 or due to a percentage reduction in a locality's Title I allocation in fiscal year 2009 or fiscal year 2010. Any locality so affected shall provide written evidence to the Superintendent of Public Instruction and request his approval to continue the services to Title I students.

f. Local plans must provide clear methods of service coordination for the purpose of reducing the per child cost for the service, increasing the number of at-risk children served and/or extending services for the entire year.

Examples of these include:

1) "Wraparound Services" -- methods for combining funds such as child care subsidy dollars administered by local social service agencies with dollars for quality preschool education programs.

2) "Wrapout Services" -- methods for using grant funds to purchase quality preschool services for at-risk four-year-old children through an existing child care setting by purchasing comprehensive services within a setting which currently provides quality preschool education.

3) "Expansion of Service" -- methods for using grant funds to purchase slots within existing programs, such as Head Start, which provide comprehensive services to at-risk four-year-old children.

Local applications must indicate the number of at-risk four-year-old children to be served, and the criteria by which they will be determined to be at risk.

g.1) The Department of Education shall provide technical assistance to school divisions and localities in developing a comprehensive, coordinated, quality preschool program for serving at-risk four-year-old children and in developing the required program application.

2) The Department of Education shall provide school divisions and local governments with information on models for service delivery, methods of coordinating funding streams, such as funds to match federal IV-A child care dollars, to maximize funding without supplanting existing sources of funding for the provision of services to at-risk four-year-old children. A priority for technical assistance in the design of programs and development of applications shall be given to localities where the majority of the at-risk four-year-old population is currently

unserved.

h. The Department of Education is authorized to expend unobligated balances in this Item to increase payments made pursuant to paragraphs c.2) and c.3) that were initially reduced on a prorated basis due to the lack of available funding.

i. An estimated \$14,855,632 in federal funds is appropriated in the Item for Federal Education Assistance Programs as a source of funds for the Virginia Preschool Initiative program in the second year.

j. Private providers who serve children who qualify for free or reduced-price lunch and who participate in the QRIS may apply directly to the Department of Education for funds not claimed by local governments or school divisions. From such funds as are available, the Department of Education shall base its payment on the same calculation that it would pay to the local government or school division in which the private provider is located.

16. Early Reading Intervention

a. An additional incentive payment of \$17,023,075 the first year and \$17,064,944 the second year from the general fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing early reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on diagnostic tests which have been approved by the Department of Education. The Department of Education shall review the tests of any local school board which requests authority to use a test other than the state-provided test to ensure that such local test uses criteria for the early diagnosis of reading deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These incentive payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of five to one. The estimated number of students in each school division in each year shall be determined by multiplying the projected number of students reported in each school division's fall membership in grades kindergarten, 1, 2, and 3 by the percent of students who are determined to need services based on diagnostic tests administered in the previous year in that school division and adjusted in the following manner:

| | Year 1 | Year 2 |
|--------------|--------|--------|
| Kindergarten | 100% | 100% |
| Grade 1 | 100% | 100% |
| Grade 2 | 100% | 100% |
| Grade 3 | 25% | 25% |

c. These incentive payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. Such intervention programs, at the discretion of the local school division, may include, but not be limited to, the use of: special reading teachers; trained aides; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class

groups while the teacher provides direct instruction to the students who need extra assistance; or extended instructional time in the school day or year for these students. Localities receiving these incentive payments are required to match these funds based on the composite index of local ability-to-pay.

17. Standards of Learning Algebra Readiness

- a. An additional incentive payment of \$8,984,732 the first year and \$8,971,127 the second year from the general fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing math intervention services to students in grades 6, 7, 8 and 9 who are at-risk of failing the Algebra 1 end-of-course test, as demonstrated by their individual performance on diagnostic tests which have been approved by the Department of Education. The Department of Education shall review the tests to ensure that such local test uses state-provided criteria for diagnosis of math deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.
- b. These incentive payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of ten to one. The estimate number of students in each school division shall be determined by multiplying the projected number of students reported in each school division's fall membership by the percent of students that qualify for the federal Free Lunch Program.
- c. These incentive payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. Localities receiving these incentive payments are required to match these funds based on the composite index of local ability-to-pay.

18. School Construction Grants Program

- a. This appropriation includes an amount estimated at \$27,500,002 the first year and \$27,499,996 the second year from the general fund to provide grants to school divisions for nonrecurring expenditures by the relevant school division. Nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, payments to escrow accounts pursuant to Chapter 391, Acts of Assembly of 1999, school safety equipment or school safety renovations, and debt service payments on school projects completed during the last ten years.
- b. School divisions are encouraged to utilize value engineering in school construction projects funded with these grant proceeds.
- c. Any funds provided to school divisions for school construction that are unexpended as of June 30, 2009, and June 30, 2010, shall be carried on the books of the locality to be appropriated to the school division the following year for use for the same purpose.
- d. Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be paid School Construction Grant payments on the basis of having the same number of school divisions as existed prior to September 30, 2000.

19. English as a Second Language Payments

A payment of \$38,893,696 the first year and \$44,107,117 the second year from the general fund shall be disbursed

by the Department of Education to local school divisions to support the state share of 17 professional instructional positions per 1,000 students for whom English is a second language. Local school divisions shall provide a local match based on the composite index of local ability-to-pay.

20. Special Education Instruction Payments

- a. The Department of Education shall establish rates for all elements of Special Education Instruction Payments.
- b. Out of the appropriations in this Item, the Department of Education shall make available, subject to implementation by the Superintendent of Public Instruction, an amount estimated at \$64,733,191 the first year and \$70,713,860 the second year from the general fund for the purpose of the state's share of the tuition rates for approved public school regional programs. Notwithstanding any contrary provision of law, the state's share of the tuition rates shall be based on the composite index of local ability-to-pay.
- c. Out of the amounts for Financial Assistance for Categorical Programs, \$33,906,381 the first year and \$37,177,857 the second year from the general fund is appropriated to permit the Department of Education to enter into agreements with selected local school boards for the provision of educational services to children residing in certain hospitals, clinics, and detention homes by employees of the local school boards. The selection and employment of instructional and administrative personnel under such agreements will be the responsibility of the local school board in accordance with procedures as prescribed by the local school board.

21. Vocational Education Instruction Payments

- a. It is the intention of the General Assembly that the Department of Education explore initiatives that will encourage greater cooperation between jurisdictions and the Virginia Community College System in meeting the needs of public school systems.
- b. This appropriation includes \$1,800,000 each year from the general fund for secondary vocational-technical equipment. A base allocation of \$2,000 each year shall be available for all divisions, with the remainder of the funding distributed on the basis of student enrollment in secondary vocational-technical courses. State funds received for secondary vocational-technical equipment must be used to supplement, not supplant, any funds currently provided for secondary vocational-technical equipment within the locality.

22. Adult Education Payments

State funds shall be used to reimburse general adult education programs on a fixed cost per pupil or cost per class basis. No state funds shall be used to support vocational noncredit courses.

23. General Education Payments

- a.1) This appropriation includes \$7,853,362 the first year and \$8,813,362 the second year from the general fund for targeted education initiatives to improve student achievement and teacher quality, including a mentoring program for teachers with no experience working in schools that are at-risk of not meeting adequate yearly progress, a middle school math teacher initiative in at-risk schools, turnaround specialists to enhance the leadership in schools that have consistently failed to show improvement in student progress, virtual Advanced Placement courses, student acquisition of industry certifications and GED tests as required by the No Child Left Behind Act.
- 2) General funds are provided in this Item to support the cost of individuals to obtain a Turnaround Specialist credential from training programs approved by the Department of Education and to provide salary incentives and school improvement funding for individuals obtaining a Turnaround Specialist credential from an approved program who are assigned to serve as a Turnaround Specialist in a low-performing public school in Virginia that meets the eligibility criteria established by the Department of Education to participate in the Turnaround

Specialist Program.

3) In the event that existing funds are not available, additional nongeneral funds do not become available, and/or the contracts are not re-negotiated to lower amounts, the Department of Education is authorized to transfer up to \$487,200 each year from the general fund appropriation authorized in C. 23. a. 1) to Item 132 for the contract for the on-line student career planning program.

b.1) In addition, the appropriation includes \$500,000 the first year and \$500,000 the second year from the general fund for competitive grants of \$100,000 each to be awarded to school divisions which demonstrate a partnership agreement with a Virginia institution of higher learning and/or other entity for a defined leadership development training program that addresses the leadership standards established for such training as defined by the Board of Education. Such competitive grants may be awarded to the existing leadership development training programs. The Department of Education shall establish the guidelines for school divisions to apply for these grants. These grants shall be allocated over the biennium.

2) School divisions that are awarded a competitive leadership grant in either fiscal year shall be allowed to retain any unspent balances at the end of that fiscal year in which the grant was awarded and shall be permitted to spend any remaining balances for the intended purposes during the ensuing two fiscal years.

c. This appropriation includes \$2,774,478 the first year and \$2,774,478 the second year from the general fund to support Project Graduation.

24. Virtual Virginia

a. From appropriations in this Item, the Department of Education shall provide assistance for the Virtual Virginia program.

b. The local share of costs associated with the operation of the Virtual Virginia program shall be computed using the composite index of local ability-to-pay.

25. Individual Student Alternative Education Program

Out of this appropriation, \$2,247,581 the first year and \$2,247,581 in the second year from the general fund shall be provided for the secondary schools' Individual Student Alternative Education Program (ISAEP), pursuant to Chapter 488 and Chapter 552 of the 1999 Session of the General Assembly. The Department of Education shall report the status of this program along with any recommendations for determining the cost of this program to the Governor and the Chairmen of the Senate Finance, Senate Education and Health, House Appropriations, and House Education Committees and the Department of Planning and Budget no later than October 15 of each year.

26. Foster Children Education Payments

a. An additional state payment is provided from the general fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil not a resident of the school division providing his education (a) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (b) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (c) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home.

b. This appropriation provides \$11,739,134 the first year and \$12,639,727 the second year from the general fund to support children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines, as provided by subsections A and B of § [22.1-101.1](#), Code of Virginia. To the extent these funds

are not adequate to cover the full costs specified therein, the department is authorized to expend unobligated balances in this Item for this support.

27. Sales Tax

- a. This is a sum-sufficient appropriation for distribution to counties, cities and towns a portion of net revenue from the state sales and use tax, in support of the Standards of Quality (Title 22.1, Chapter 13.2, Code of Virginia) (See the Attorney General's opinion of August 3, 1982).
- b. Certification of payments and distribution of this appropriation shall be made by the State Comptroller.
- c. The distribution of state sales tax funds shall be made in equal bimonthly payments at the middle and end of each month.

28. Lottery

- a. This appropriation includes \$450,000,000 the first year and \$450,000,000 the second year from the general fund as the state payment for the lottery profits, to be deposited into the general fund pursuant to § 3-1.01 G of this act.
- b. Out of this appropriation, \$264,789,786 the first year and \$264,789,786 the second year shall be transferred and used to fund the state's share of Basic Aid Payments as defined in paragraph 5.b.2) above.
- c. \$19,517,499 the first year and \$19,517,499 the second year in Lottery proceeds appropriated in this Item shall be added to general funds appropriated in this Item, to provide for the state share of cost of the Standards of Quality prevention, intervention, and remediation program.
- d. Out of this appropriation, an amount estimated at \$165,692,715 the first year and \$165,692,715 the second year shall be disbursed by the Department of Education to local school divisions to support the state share of an estimated \$246.48 per pupil the first year and \$245.57 per pupil the second year in adjusted March 31 average daily membership. These per pupil amounts are subject to change for the purpose of payment to school divisions based on the actual March 31 ADM collected each year. These funds shall be matched by the local government, based on the composite index of local ability-to-pay. Further, in order to receive this funding, the locality in which the school division is located shall appropriate these funds solely for educational purposes and shall not use such funds to reduce total local operating expenditures for public education below the amount expended by the locality for such purposes in the year upon which the 2008-10 biennial Standards of Quality expenditure data were based; provided however, that no locality shall be required to maintain a per pupil expenditure which is greater than the per pupil amount expended by the locality for such purposes in the year upon which the 2008-10 biennial Standards of Quality expenditure data were based.
- e. Of the amounts listed above, no more than 50 percent shall be used for recurring costs and at least 50 percent shall be spent on nonrecurring expenditures by the relevant school divisions. Nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the last 10 years.
- f. Any lottery funds provided to school divisions from this Item that are unexpended as of June 30, 2009, and June 30, 2010, shall be carried on the books of the locality to be appropriated to the school division in the following year.

29. Adult Literacy

- a. Appropriations in this Item include \$125,000 the first year and \$125,000 the second year from the general fund

for the ongoing literacy programs conducted by Mountain Empire Community College, and \$125,000 the first year and \$125,000 the second year from the general fund will be transferred to the Department of Housing and Community Development to support workforce literacy and training.

b. Out of this appropriation, the Department of Education shall provide \$100,000 the first year and \$100,000 the second year from the general fund for the Virginia Literacy Foundation grants to support programs for adult literacy including those delivered by community-based organizations and school divisions providing services for adults with 0-9th grade reading skills.

c. Out of this appropriation, the Department of Education shall provide \$47,500 the first year and \$47,500 the second year from the general fund to Virginia Tech as the fiscal agent for the Virginia Educational Technology Alliance to provide teacher training opportunities in the effective use of educational technologies to full-time, part-time and volunteer teachers involved in adult education and literacy programs in the Commonwealth.

30. Governor's School Payments

a. Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of regular school year Governor's Schools based on each participating locality's composite index of local ability-to-pay. Participating school divisions must certify that no tuition is assessed students for participation in this program.

b. Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of summer residential Governor's Schools and Foreign Language Academies to be based on the greater of the state's share of the composite index of local ability-to-pay or 50 percent. Participating school divisions must certify that no tuition is assessed students for participation in this program if they are enrolled in a public school.

c. It shall be the policy of the Commonwealth that state general fund appropriations not be used for capital outlay, structural improvements, renovations, or fixed equipment costs associated with initiation of existing or proposed Governor's schools. State general fund appropriations may be used for the purchase of instructional equipment for such schools, subject to certification by the Superintendent of Public Instruction that at least an equal amount of funds has been committed by participating school divisions to such purchases.

d. The Board of Education shall not take any action that would increase the state's share of costs associated with the Governor's Schools as set forth in this Item. This provision shall not prohibit the Department of Education from submitting requests for the increased costs of existing programs resulting from updates to student enrollment for school divisions currently participating in existing programs or for school divisions that begin participation in existing programs.

e.1) Regular school year Governor's Schools are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs for each student attending a Governor's School up to a cap of 1,500 students per Governor's School. This incremental per pupil payment shall be adjusted for the composite index of the school division that counts such students attending an academic year Governor's School in their March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the Governor's Schools for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the day that the student does not attend a Governor's School.

2) Students attending a revolving Academic Year Governor's School program for only one semester shall be counted as 0.50 of a full-time equivalent student and will be funded for only fifty percent of the full-year funded per pupil amount. Funding for students attending a revolving Academic Year program will be adjusted based upon

actual September 30th and January 30th enrollment each fiscal year. For purposes of this Item, revolving programs shall mean Academic Year Governor's School programs that admit students on a semester basis.

3) Students attending a continuous, non-revolving Academic Year Governor's School program shall be counted as a full-time equivalent student and will be funded for the full-year funded per pupil amount. Funding for students attending a continuous, non-revolving Academic Year Governor's School program will be adjusted based upon actual September 30th student enrollment each fiscal year. For purposes of this Item, continuous, non-revolving programs shall mean Academic Year Governor's School programs that only admit students at the beginning of the school year. Fairfax County Public Schools shall not reduce local per pupil funding for the Thomas Jefferson Governor's School below the amounts appropriated for the 2003-2004 school year.

31. School Nutrition

It is provided that, subject to implementation by the Superintendent of Public Instruction, no disbursement shall be made out of the appropriation for school nutrition to any locality in which the schools permit the sale of competitive foods in food service facilities or areas during the time of service of food funded pursuant to this Item.

32. School Breakfast

1. Out of this appropriation, \$1,699,557 the first year and \$1,996,551 the second year from the general fund is included for the purpose of establishing a state funded incentive program to maximize federal school nutrition revenues and increase student participation in the school breakfast program. These funds are available to any school division as a reimbursement for breakfast meals served that are in excess of the baseline established by the Department of Education. The per meal reimbursement shall be \$0.20; however, the department is authorized to reduce this amount proportionately in the event that the actual number of meals to be reimbursed exceeds the number on which this appropriation is based so that this appropriation is not exceeded.

2. In order to receive these funds, school divisions must certify that these funds will be used to supplement existing funds provided by the local governing body and that local funds derived from sources that are not generated by the school nutrition programs have not been reduced or eliminated. The funds shall be used to improve student participation in the school breakfast program. These efforts may include, but are not limited to, reducing the per meal price paid by students, reducing competitive food sales in order to improve the quality of nutritional offerings in schools, increasing access to the school breakfast program, or providing programs to increase parent and student knowledge of good nutritional practices. In no event shall these funds be used to reduce local tax revenues below the level appropriated to school nutrition programs in the prior year. Further, these funds must be provided to the school nutrition programs and may not be used for any other school purpose.

33. Clinical Faculty and Mentor Teacher Programs

This appropriation includes \$1,375,000 the first year and \$1,375,000 the second year from the general fund for statewide Clinical Faculty and Mentor Teacher Programs to assist preservice teachers and beginning teachers to make a successful transition into full-time teaching. Such programs shall include elements which are consistent with the following:

- a. An application process for localities and school/higher education partnerships that wish to participate in the programs;
- b. Provisions for a local funding or institutional commitment of 50 percent, to match state grants of 50 percent;
- c. Program plans which include a description of the criteria for selection of clinical faculty and mentor teachers, training, support, and compensation for clinical faculty and mentor teachers, collaboration between the school division and institutions of higher education, the clinical faculty and mentor teacher assignment process, and a

process for evaluation of the programs;

d. The Department of Education shall allow flexibility to local school divisions and higher education institutions regarding compensation for clinical faculty and mentor teachers consistent with these elements of the programs; and

e. It is the intent of the General Assembly that no preference between preservice or beginning teacher programs be construed by the language in this Item. School divisions operating beginning teacher mentor programs shall receive equal consideration for funding.

34. Appropriations in this Item include \$429,392 the first year and \$429,392 the second year from the general fund to provide grants to school divisions or Virginia institutions of higher education that employ mentor teachers for new teachers entering the profession through the alternative route to licensure as prescribed by the Board of Education.

35. Data Coordinators in At-Risk High Schools

a. An additional incentive payment of \$2,060,234 the second year from the general fund shall be disbursed by the Department of Education to local school divisions for data coordinators assigned to high schools that have not met Adequate Yearly Progress (AYP) under the federal No Child Left Behind Act or are not fully accredited under the Standards of Accreditation. The data coordinator position is intended to provide schools with needed support in the area of data analysis and interpretation for instructional purposes, as well as overall data management and the administration of state assessments. The position would primarily focus on data related to instruction and school improvement, including: student assessment, student attendance, student/teacher engagement, behavior referrals, suspensions, retention, and graduation rates. School divisions will allocate these funds for data coordinator positions employed by the school division or contracted by the local school division to provide these services in the identified high schools.

b. Individuals serving in this role must hold a current Virginia instructional license.

c. Localities receiving these incentive payments are required to match these funds based on the composite index of local ability-to-pay.