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# VIRGINIA STATE BUDGET

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2012 Special Session I

## Budget Bill - HB1300 (Chapter 2)

Bill Order » Office of Education » Item 132

Direct Aid to Public Education

Item 132	First Year - FY2011	Second Year - FY2012
<b>State Education Assistance Programs (17800)</b>	<b>\$5,283,978,697</b>	<b>\$5,513,401,257</b> <b>\$5,490,067,679</b>
<del>Standards of Quality for Public Education (SOQ) (17801)</del>	\$4,694,672,603	<del>\$4,902,077,135</del>
Standards of Quality for Public Education (Soq) (17801)		\$4,898,382,982
Financial Incentive Programs for Public Education (17802)	\$103,501,924	\$121,365,168 \$66,621,846
Financial Assistance for Categorical Programs (17803)	\$50,604,170	\$54,083,954 \$51,962,851
Distribution of Lottery Funds (17805)	\$435,200,000	\$435,875,000 \$473,100,000
Fund Sources:		
General	\$4,706,006,597	\$4,944,242,729 \$4,883,684,151
Special	\$795,000	\$795,000
Commonwealth Transportation	\$2,173,000	\$2,173,000
Trust and Agency	\$575,004,100	\$566,190,528 \$603,415,528

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.

Distribution of Lottery Funds (17805): §§ [58.1-4022.1](#) and [58.1-4022](#), Code of Virginia

**Appropriation Detail of Education Assistance Programs (17800)**

<b>Standards of Quality (17801)</b>	<b>FY 2011</b>	<b>FY 2012</b>
Basic Aid (excluding State Fiscal Stabilization Funds)	\$2,746,726,975	<del>\$2,868,000,323</del> \$2,860,903,585
Sales Tax	\$1,123,100,000	<del>\$1,162,300,000</del> \$1,167,000,000
Textbooks (split funded)	\$10,610,395	<del>\$547,995</del> \$0
Vocational Education	\$65,975,053	<del>\$65,987,613</del> \$65,924,406
Gifted Education	\$30,944,324	<del>\$31,060,898</del> \$31,020,899
Special Education	\$361,744,703	<del>\$362,561,667</del> \$362,337,366
Prevention, Intervention, and Remediation	\$69,458,001	<del>\$69,431,627</del> \$69,402,834
VRS Retirement	\$104,031,534	<del>\$159,588,656</del> \$159,406,576
Social Security	\$175,616,146	<del>\$176,117,112</del> \$175,916,399
Group Life	\$6,458,766	<del>\$6,478,763</del> \$6,470,917
<b>Subtotal SOQ (In this Item)</b>	<b>\$4,694,665,897</b>	<b><del>\$4,902,074,654</del></b> <b>\$4,898,382,982</b>
SOQ Funded from State Fiscal Stabilization Funds, Item 133	\$122,941,314	\$0
<b>Total</b>	<b>\$4,817,607,211</b>	<b><del>\$4,902,074,654</del></b> <b>\$4,898,382,982</b>
<b>Incentive Programs (17802)</b>		
Governor's School	\$13,753,589	<del>\$14,711,914</del> \$13,722,333
Clinical Faculty	\$318,750	\$318,750

Career Switcher Mentoring Grants	\$279,983	\$279,983
Special Education Endorsement Program	\$600,000	\$600,000
Special Education - Vocational Education	\$200,089	\$200,089
Composite Index Hold Harmless (split funded)	\$88,349,513	\$14,560,612
		\$0
Performance Pay Initiative	\$0	\$3,000,000
		\$0
Supplemental Support for School Operating Costs	\$0	\$87,693,820
		\$51,500,691
<b>Total</b>	<b>\$103,501,924</b>	<b>\$121,365,168</b>
		<b>\$66,621,846</b>
<b>Categorical Programs (17803)</b>		
Adult Education	\$1,051,800	\$1,051,800
Adult Literacy	\$2,645,375	\$2,645,375
Virtual Virginia	\$2,356,908	\$2,356,908
American Indian Treaty Commitment	\$62,012	\$66,136
		\$55,972
School Lunch	\$5,801,932	\$5,801,932
Special Education - Homebound	\$5,028,591	\$5,311,790
		\$5,123,302
Special Education - Jails	\$3,698,491	\$4,065,031
		\$3,409,107
Special Education - State Operated Programs	\$29,959,061	\$32,784,982
		\$31,518,455
<b>Total</b>	<b>\$50,604,170</b>	<b>\$54,083,954</b>
		<b>\$51,962,851</b>
<b>Lottery (17805)</b>		
Foster Care	\$10,379,960	\$11,280,189
		\$9,549,523
At-Risk	\$63,963,698	\$63,942,399
		\$63,940,825
Virginia Preschool Initiative	\$60,482,416	\$65,104,439

		<i>\$62,907,575</i>
Early Reading Intervention	\$13,375,413	<del>\$13,409,571</del>
		<i>\$13,618,329</i>
Mentor Teacher	\$1,000,000	\$1,000,000
K-3 Primary Class Size Reduction	\$72,710,288	<del>\$74,777,373</del>
		<i>\$74,386,767</i>
School Breakfast Program	\$2,497,421	<del>\$2,935,937</del>
		<i>\$2,891,423</i>
SOL Algebra Readiness	\$9,074,317	<del>\$9,062,788</del>
		<i>\$9,185,714</i>
Regional Alternative Education	\$6,715,412	<del>\$6,953,940</del>
		<i>\$6,941,282</i>
ISAEP	\$2,247,581	\$2,247,581
Special Education – Regional Tuition	\$70,989,340	<del>\$76,011,161</del>
		<i>\$68,193,503</i>
Career and Technical Education – Categorical	\$10,400,829	\$10,400,829
No Child Left Behind/ Education for a Lifetime	\$4,749,675	<del>\$4,749,675</del>
		<i>\$4,437,895</i>
Project Graduation	\$2,774,478	\$2,774,478
Supplemental Basic Aid	\$906,692	<del>\$869,195</del>
		<i>\$855,839</i>
Remedial Summer School	\$20,823,833	<del>\$21,496,705</del>
		<i>\$20,979,581</i>
English as a Second Language	\$37,514,278	<del>\$39,960,785</del>
		<i>\$38,740,581</i>
Textbooks (split funded)	\$24,821,859	<del>\$26,892,683</del>
		<i>\$27,406,097</i>
Composite Index Hold Harmless (split funded)	\$19,772,510	<del>\$2,000,000</del>
		<i>\$16,560,612</i>
<i>Supplemental Support for School Operating Costs</i>	<i>\$0</i>	<i>\$36,081,566</i>
<b>Total</b>	<b>\$435,200,000</b>	<b><del>\$435,875,000</del></b>
		<b><i>\$473,100,000</i></b>

Technology – VPSA

\$56,986,000

~~\$57,168,000~~

*\$58,052,000*

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 1,209,762.40 the first year and ~~1,216,938.05~~ *1,215,736.10* the second year.

c. March 31 ADM adjusted for half-day kindergarten at 85 percent of March 31 ADM, is estimated at 1,209,176.58 the first year and ~~1,216,321.64~~ *1,215,030.04* 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 state and local shares of funding resulting from the support cost calculation for school nurses shall be specifically identified as such and reported to school divisions annually. School divisions shall spend 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  $\frac{2}{3}$  of the index of wealth per pupil in unadjusted March 31 ADM reported for the first seven (7) months of the 2007-2008 school year and  $\frac{1}{3}$  of the index of wealth per capita (population estimates for 2007 as determined by the Weldon Cooper 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 2007 - 50 percent; (2) adjusted gross income for the calendar year 2007 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 2007 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, 2009.

b. For any locality whose total calendar year 2007 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) 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 established by the Board of Education, which shall equal the lowest composite index of any of the individual school divisions involved in such consolidation. In the event of a consolidation of local governments which shall include the transition of a city to town status, 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 Lottery 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 general fund appropriations in Item 131 and Item 132 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 general fund 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. In addition, the Department of Education is authorized each year to temporarily suspend textbook payments made to school divisions from Lottery funds to ensure that any shortfall in Lottery revenue can be accounted for in the remaining textbook payments to be made for the year.

10. The Department of Education is directed to apply a cap on inflation rates in the same manner prescribed in § [51.1-166.B](#), Code of Virginia, when updating funding to school divisions during the biennial rebenchmarking process.

11. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to combine the end-of-year average daily membership (ADM) for those school divisions who have partnered together as a fiscal agent division and a contractual division for the purposes of calculating prevailing costs included in the Standards of Quality (SOQ) basic aid costs for support services through the rebenchmarking process.

12. Notwithstanding any other provision in statute or in this item, the Department of Education is directed to include zeros in the linear weighted average calculation of support non-personal costs for the purposes of

rebenchmarking and allocating funding to localities.

13. Notwithstanding any other provision in statute or in this item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported travel expenditures included the linear weighted average non-personal cost calculations for the purposes of calculating Standards of Quality (SOQ) basic aid costs for support services through the rebenchmarking process.

14. Notwithstanding any other provision in statute or in this item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported leases and rental and facility expenditures included the linear weighted average non-personal cost calculations for the purposes of calculating Standards of Quality (SOQ) basic aid costs for support services through the rebenchmarking process.

15. Notwithstanding any other provision in statute or in this item, the Department of Education is directed to fund transportation costs using a 15 year replacement schedule, which is the national standard guideline, for school bus replacement schedule for the purposes of rebenchmarking.

16. To provide temporary flexibility, notwithstanding any other provision in statute or in this Item, school divisions may elect to increase the teacher to pupil staffing ratios in kindergarten through grade 7 and English classes for grades 6 through twelve by one additional student; the teacher to pupil staffing ratio requirements for Elementary Resource teachers, Prevention, Intervention and Remediation, English as a Second Language, Gifted and Talented, Career and Technical funded programs are waived; and the instructional and support technology positions, librarians and guidance counselors staffing ratios for new hires are waived.

## **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	\$43,904	\$43,904
Elementary Assistant Principals	\$62,383	\$62,383
Elementary Principals	\$76,766	\$76,766
Secondary Teachers	\$46,090	\$46,090
Secondary Assistant Principals	\$66,658	\$66,658
Secondary Principals	\$84,564	\$84,564
Instructional Aides	\$16,104	\$16,104

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 2008 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.

d. To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers required by the Standards of Quality to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these SOQ funds in this manner shall only employ instructional personnel licensed by the Board of Education.

e. To provide flexibility in the provision of reading intervention services, school divisions may use the state Early Reading Intervention initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall only employ instructional personnel licensed by the Board of Education.

f. To provide flexibility in the provision of mathematics intervention services, school divisions may use the state Standards of Learning Algebra Readiness initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ mathematics teacher specialists to provide the required mathematics intervention services. School divisions using the Standards of Learning Algebra Readiness initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

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 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 2008 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 Lottery 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 Lottery 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 Lottery 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 Lottery 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. In addition to information on average salaries by school division and statewide comparisons with other states, the report shall also include information on starting salaries by school division and average teacher salaries by school.

13. All state and 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 2008 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 2008 triennial census of school age population in the first year and the 2008 triennial census in the second year of the biennium.

21. 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.

22. This item includes appropriations totaling an estimated \$435,200,000 the first year and ~~\$435,875,000~~

\$473,100,000 the second year from the revenues deposited to the Lottery Proceeds Fund. *The appropriations for the second year includes an additional \$9,000,000 from Lottery proceeds that were earned in FY 2011.* These amounts are appropriated for distribution to counties, cities, and towns to support public education programs pursuant to Article X, section 7-A Constitution of Virginia. Any county, city, or town which accepts a distribution from this Fund shall provide its portion of the cost of maintaining an educational program meeting the Standards of Quality pursuant to Section 2 of Article VIII of the Constitution without the use of distributions from the Fund.

23. For reporting purposes, the Department of Education shall include Lottery Proceeds Funds as state funds.

24.a. Any locality that has met its required local effort for the Standards of Quality accounts for fiscal year 2011 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in fiscal year 2011 may carry over into fiscal year 2012 any remaining state Direct Aid to Public Education fund balances available to help minimize any fiscal year 2012 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in fiscal year 2012.

b. Any locality that has met its required local effort for the Standards of Quality accounts for fiscal year 2012 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in fiscal year 2012 may carry over into fiscal year 2013 any remaining state Direct Aid to Public Education fund balances available to help minimize any fiscal year 2013 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in fiscal year 2013.

25. Localities are encouraged to allow school boards to carry over any unspent local allocations into the next fiscal year. Localities are also encouraged to provide increased flexibility to school boards by appropriating state and local funds for public education in a lump sum.

26. The Department of Education shall allocate an additional \$122,941,314 from the State Fiscal Stabilization Fund, American Recovery and Reinvestment Act of 2009, appropriated in Item 133 in the first year to the local school divisions to pay a portion of the state's share of Basic Aid. The allocations shall be based on the proportion that each school division represents to the statewide total of Basic Aid amount in this Item as introduced in House Bill 30/ Senate Bill 30. The amounts appropriated are an estimate, and may be modified by the Director, Department of Planning and Budget depending on final budget reduction actions taken to the final budget bill enacted for the 2008-10 biennium.

### **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.

### 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.

3.1 Appropriations for contributions in paragraphs 2 and 3 above include payments from funds derived from the principal of the Literary Fund in accordance with Article III, Section 8, of the Constitution of Virginia. The amounts set aside from the Literary Fund for these purposes shall not exceed \$139,575,000 the first year and \$130,086,428 the second year.

### 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. 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 2008 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.

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 Behavioral Health and Developmental Services from the locality's Basic Aid appropriation.

2) The amounts deducted from Basic Aid for the education of intellectually disabled persons shall be transferred to the Department of Behavioral Health and Developmental 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 Behavioral Health and Developmental 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 \$10,610,395 the first year and ~~\$547,995 the second year~~ from the general fund and \$24,821,859 the first year and ~~\$26,892,683~~ \$27,406,097 the second year from the Lottery Proceeds Fund as the state's share of the cost of textbooks based on a per pupil amount of \$52.54 the first year and \$40.56 the second year. The state's share of textbooks will be fund split between the general fund and Lottery Proceeds Fund. A school division shall appropriate these funds for textbooks or any other public education instructional expenditure by the school division. The state's distributions for textbooks shall be based on adjusted March 31 ADM. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.

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. School divisions may also use these funds to purchase electronic textbooks or other electronic media resources integral to the curriculum and classroom instruction and the technical equipment required to read and access the electronic textbooks and electronic curriculum materials.

4) Any funds provided to school divisions for textbook costs that are unexpended as of June 30, 2011, or June 30, 2012, 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.

5) For purposes of calculating rebenchmarking costs for textbooks for the 2012-2014 biennium, the Department of Education shall include the higher of the fiscal year 2009 or fiscal year 2010 division-level textbook per pupil amount in calculating the base year statewide prevailing per pupil amount. For this one year calculation, the Department of Education shall adjust, with one additional year of inflation, any fiscal year 2009 division-level per pupil textbook expenditure data used in calculating the base year statewide prevailing per pupil amount.

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 2008 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 \$217,300,000 the first year and ~~\$225,100,000~~ \$216,100,000 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 \$108,400,000 the first year and ~~\$112,400,000~~ \$113,700,000 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 \$108,900,000 the first year and ~~\$112,700,000~~ \$102,400,000 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 2008 triennial census of school age population in the first year and the 2008 triennial census in the second year as specified in this Item.

k. For the purposes of funding certain support positions in Basic Aid a funding ratio methodology is used based upon the prevailing ratio of support positions to SOQ funded instructional positions as established in Chapter 781, 2009 Acts of Assembly. For the purposes of making the required spending adjustments, the appropriation and distribution of Basic Aid shall reflect this methodology. Local school divisions shall have the discretion as to where the adjustment may be made, consistent with the Standards of Quality funded in this Act.

#### 6. 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.

#### 7. 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 \$107,216,580 the first year and \$107,704,301 the second year from the general fund included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.

#### 8. 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.

#### 9. Remedial Education Payments

a. An additional payment estimated at \$69,458,001 the first year and ~~\$69,431,627~~ \$69,402,834 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. To provide flexibility in the instruction of English Language Learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the SOQ Prevention, Intervention, and Remediation account to employ additional English Language Learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided through the SOQ staffing standard of 17 instructional positions per 1,000 limited English proficiency students. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall only employ instructional personnel licensed by the Board of Education.

e. An additional state payment estimated at \$63,963,698 the first year and ~~\$63,991,497~~ \$63,940,825 the second year from the Lottery Proceeds 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 share 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 may be used first to provide data coordinators 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. 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.

f. Regional Alternative Education Programs

1) An additional state payment of \$6,715,412 the first year and ~~\$7,031,965~~ \$6,941,282 the second year from the Lottery Proceeds 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 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 \$20,823,833 the first year and ~~\$21,496,705~~ \$20,979,581 the second year from the Lottery Proceeds 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.

#### 10. K-3 Primary Class Size Reduction Payments

a. An additional payment estimated at \$72,710,288 the first year and ~~\$74,777,373~~ \$74,386,767 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education as an incentive 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	K-3 Class Size
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 and instructional aides 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.

#### 11. Literary Fund Subsidy Program Payments

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 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.

c. 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.

d. 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.

#### 12. 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 authorize amounts estimated at \$12,825,750 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 2006.

c. The Board of Education shall authorize amounts estimated at \$12,981,750 the first year and \$12,978,000 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.

d.1) The Board of Education shall authorize amounts estimated at \$12,606,750 the first year and \$12,607,250 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 2008.

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

e. 1) The Board of Education shall authorize amounts estimated at \$12,155,750 the first year and \$12,151,000 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 2009.

2) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2012-14 biennial budget for public education, the Board of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for this program in fiscal year 2013 and fiscal year 2014.

f.1) The Board of Education shall authorize amounts estimated at \$12,940,236 the first year and \$13,051,000 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 2010.

2) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2012-14 and 2014-16 biennial budgets for public education, the Board of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for this program in fiscal years 2013, 2014, and 2015.

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 \$56,986,000 in fiscal year 2011 and ~~\$57,168,000~~ \$58,052,000 in fiscal year 2012. 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. By fiscal year 2011, high schools within the division shall administer 100 percent of SOL tests online; by fiscal year 2012, middle and high schools shall administer 100 percent of SOL tests online; and by fiscal year 2013, elementary, middle, and high schools shall administer 100 percent of SOL tests online. School divisions shall use these funds first to develop and maintain the capability to support the administration of online SOL testing for all students with the exception of students with a documented need for a paper SOL test.

2) The Board of Education shall authorize amounts estimated at ~~\$12,020,428~~ \$11,907,598 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 2011.

3) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for education technology grant programs in fiscal year 2011 and in fiscal year 2012. In developing the proposed 2012-14, 2014-2016, and 2016-2018 biennial budgets for public education, the Board of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2013, 2014, 2015, 2016, and 2017.

4) Grant funds from the issuance of \$56,986,000 in fiscal year 2011 and ~~\$57,168,000~~ \$58,052,000 in fiscal year 2012 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 schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, 2010, for the fiscal year 2011 issuance, and September 30, 2011, for the fiscal year 2012 issuance, as well as regional vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, and the School for the Deaf and the Blind. Schools that serve only pre-kindergarten students shall not be eligible for this grant.

5) Supplemental grants shall be allocated to eligible divisions to support schools that are not fully accredited in accordance with this paragraph. Schools that administer SOL tests in Spring 2010 and that are not fully accredited based on school accreditation ratings in effect for fiscal year 2011 will qualify for a supplemental grant of \$26,000 per school in fiscal years 2011, 2012, and 2013. Schools that administer SOL tests in Spring 2011 and that are not fully accredited based on school accreditation ratings in effect for fiscal year 2012 will qualify for a supplemental grant of \$26,000 per school in fiscal years 2012, 2013, and 2014. Schools eligible to receive these three-year supplemental grants shall only receive them one time.

6) Required local match:

a) Localities are required to provide a match for these funds equal to 20 percent of the grant amount, including the supplemental grants provided pursuant to paragraph g. 5). At least 25 percent of the local match shall be used for teacher training in the use of instructional 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 School for the Deaf and the Blind is exempt from the match requirement.

b) School divisions that administer 100 percent of SOL tests online in all elementary, middle, and high schools may use up to 75 percent of their required local match to purchase targeted technology-based interventions. Such interventions may include the necessary technology and software to support online learning, technology-based content systems, content management systems, technology equipment systems, information and data management systems, and other appropriate technologies that support the individual needs of learners. School divisions that receive supplemental grants of \$26,000 per school pursuant to paragraph g. 5) and where 100 percent of SOL tests are administered online in the schools receiving the supplemental grants shall give first priority to purchasing these technology-based interventions as well as teacher training in the use of the interventions from their required local match.

7) The goal of the education technology grant program is to improve the instructional, remedial, and testing capabilities of the Standards of Learning for local school divisions and to increase the number of schools achieving full accreditation.

8) 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) For purposes of establishing or enhancing a computer-based instructional program supporting the Standards of Learning pursuant to paragraph g. 1) above, school divisions may use these grant funds to purchase handheld multifunctional computing devices that support a broad range of applications and that are controlled by operating

systems providing full multimedia support and mobile Internet connectivity. School divisions that elect to use these grant funds to purchase such qualifying handheld devices must continue to meet the on-line testing requirements stated in paragraph g. 1) above.

d) School divisions shall be eligible to apply for and receive supplemental grants of \$26,000 per qualifying school pursuant to paragraph g. 5). These supplemental grants shall be used first for the purpose of developing and maintaining capacity to support 100 percent online SOL testing of all students in qualifying schools and helping the schools achieve full accreditation with the assistance of targeted technology-based interventions. Any purchase of technology-based interventions as described in paragraph g. 6) b) with supplemental grant funds must be qualifying expenses under the technology notes program. Eligibility for these funds requires divisions to submit an application and plan that includes goals, objectives, strategies, and a timeline for implementation. Division plans will be reviewed and approved by the Superintendent of Public Instruction prior to disbursement of the supplemental grant funds.

e) 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.

9) 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.

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 amounts authorized 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.

### 13. Virginia Preschool Initiative Payments

a.1) It is the intent of the General Assembly that a payment estimated at \$60,482,416 the first year and ~~\$65,104,439~~ \$62,907,575 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds unserved by Head Start program funding. In no event shall distributions from the Lottery Proceeds Fund be made directly to community-based or private providers.

2) These state funds and required local matching funds shall be used to provide programs for at-risk four-year-old children which include quality preschool education, health services, social services, parental involvement and transportation. It shall be the policy of the Commonwealth that state funds and required local matching funds for the Virginia Preschool Initiative not be used for capital outlay. Programs must provide full-day or half-day and, at least, school-year services.

3) The Department of Education, in cooperation with the Council on Child Day Care and Early Childhood Programs, shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be required to be evaluated in the fall and in the spring by each participating school division and the school divisions must certify that the Virginia Preschool Initiative program follows the established standards in order to receive the funding for quality preschool education and criteria for the service components. 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.

4)a) Grants shall be distributed based on an allocation formula providing the state share of a \$6,000 grant for 100 percent of the unserved at-risk four-year-olds in each locality for a full-day program. Programs 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 provided. Half-day programs shall operate for a minimum of three hours of classroom instructional time per day, excluding breaks for lunch or recess, and grants to half-day programs shall be funded based on the state share of \$3,000 per unserved at-risk four-year-old in each locality. Full-day programs shall operate for a minimum of five and one-half instructional hours, excluding breaks for meals and recess. No additional state funding is provided for programs operating greater than three hours per day but less than five and one-half hours per day. In determining the state and local shares of funding, the composite index of local ability-to-pay is capped at 0.5000.

b) 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 provided. In determining the prorated state funds to be received, a school year shall be 180 days.

b.1) Any locality which desires to participate in this grant program must submit a proposal through its chief administrator (county administrator or city manager) by May 15 of each year. 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 proposal 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) A local match, based on the composite index of local ability-to-pay, shall be required. For purposes of meeting the local match, localities may use local expenditures for existing qualifying programs, however, at least seventy-five percent of the local match will be cash and no more than twenty-five percent will be in-kind. In-kind contributions are defined as cash outlays that are made by the locality that benefit the program but are not directly charged to the program. The value of fixed assets cannot be considered as an in-kind contribution. Localities 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 I of the federal 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 2009-2010 or 2010-2011. 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.

c. 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 to 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 plans 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.

d.1) The Department of Education and the Council on Child Day Care and Early Childhood Programs shall provide technical assistance for the administration of this grant program to provide assistance to localities in developing a comprehensive, coordinated, quality preschool program for serving at-risk four-year-old children.

2) A pre-application session shall be provided by the Department and the Council on Child Day Care and Early Childhood Programs prior to the proposal deadline. The Department shall provide interested localities 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 shall be given to localities where the majority of the at-risk four-year-old population is currently unserved.

e. The Department of Education is authorized to expend unobligated balances in this program's adopted budget allocations for grants to qualifying school divisions for one-time expenses, other than capital, related to start-up or expansion of programs.

#### 14. Early Reading Intervention Payments

a. An additional payment of \$13,375,413 the first year and ~~\$13,409,571~~ \$13,618,329 the second year from the Lottery Proceeds 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 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 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 payments are required to match these funds based on the composite index of local ability-to-pay.

#### 15. Standards of Learning Algebra Readiness Payments

a. An additional payment of \$9,074,317 the first year and ~~\$9,062,788~~ \$9,185,714 the second year from the Lottery Proceeds 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 I 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 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 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 payments are required to match these funds based on the composite index of local ability-to-pay.

#### 16. School Construction Grants Program Payments

Notwithstanding the requirements of Section 22.1-175.5 of the Code of Virginia, school divisions are permitted to withdraw funds from local escrow accounts established pursuant to Section 22.1-175.5 to pay for recurring operational expenses incurred by the school division. Localities are not required to provide a local match of the withdrawn funds.

#### 17. English as a Second Language Payments

A payment of \$37,514,278 the first year and ~~\$39,960,785~~ \$38,740,581 the second year from the Lottery Proceeds 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.

#### 18. 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 \$70,989,340 the first year and ~~\$76,011,161~~ \$68,193,503 the second year from the Lottery Proceeds 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, \$29,959,061 the first year and ~~\$32,784,982~~ \$31,518,455 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. State payments for the first year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of fiscal year 2010 and the first three quarters of fiscal year 2011. State payments for the second year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of fiscal year 2011 and the first three quarters of fiscal year 2012.

#### 19. 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 the first year from the Lottery Proceeds Fund and \$1,800,000 the second

year from the Lottery Proceeds 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. Local school divisions are not required to provide a local match in order to receive these state funds.

#### 20. 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.

#### 21. General Education Payments

a. This appropriation includes \$4,749,675 the first year from the Lottery Proceeds Fund and ~~\$4,749,675~~ \$4,437,895 the second year from the Lottery Proceeds 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, virtual Advanced Placement courses, student acquisition of industry certifications and GED tests as required by the No Child Left Behind Act.

b. This appropriation includes \$2,774,478 the first year from the general fund and \$2,774,478 the second year from the Lottery Proceeds Fund to support Project Graduation and any associated administrative and contractual service expenditures related to this initiative.

#### 22. Virtual Virginia Payments

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.

#### 23. Individual Student Alternative Education Program (ISAE) Payments

Out of this appropriation, \$2,247,581 the first year from the Lottery Proceeds Fund and \$2,247,581 in the second year from the Lottery Proceeds Fund shall be provided for the secondary schools' Individual Student Alternative Education Program (ISAE), pursuant to Chapter 488 and Chapter 552 of the 1999 Session of the General Assembly.

#### 24. Foster Children Education Payments

a. An additional state payment is provided from the Lottery Proceeds Fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil of school age as defined in § 22.1-1, Code of Virginia, 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 \$10,379,960 the first year and ~~\$11,280,189~~ \$9,549,523 the second year from the Lottery Proceeds 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.

#### 25. Sales Tax Payments

- 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.

#### 26. Adult Literacy Payments

- 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 \$40,375 the first year and \$40,375 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.

#### 27. 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. For the Summer Governor's Schools and Foreign Language Academies programs, the Superintendent of Public Instruction is authorized to adjust the tuition rates, types of programs offered, length of programs, and the number of students enrolled in order to maintain costs within the available state and local funds for these programs.
- d. 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.

e. 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.

f.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 1,650 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.

## 28. School Nutrition Payments

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.

## 29. School Breakfast Payments

a. Out of this appropriation, \$2,497,421 the first year and ~~\$2,935,937~~ \$2,891,423 the second year from the Lottery Proceeds 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 \$0.22; however, the department is authorized, but not required 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.

b. 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.

#### 30. Clinical Faculty and Mentor Teacher Program Payments

This appropriation includes \$1,000,000 the first year and \$1,000,000 the second year from the Lottery Proceeds Fund to be paid to local school divisions for statewide Mentor Teacher Programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. This appropriation also includes \$318,750 the first year and \$318,750 the second year from the general fund for Clinical Faculty programs to assist pre-service 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. For Clinical Faculty programs only, 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 pre-service 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.

#### 31. Career Switcher/Alternative Licensure Payments

Appropriations in this Item include \$279,983 the first year and \$279,983 the second year from the general fund to provide grants to school divisions that employ mentor teachers for new teachers entering the profession through the alternative route to licensure as prescribed by the Board of Education.

#### 32. Composite Index Hold Harmless

Out of this appropriation, \$88,349,513 from the general fund and \$19,772,510 from the Lottery Proceeds Fund shall be used in the first year to provide hold harmless grants, for the loss in House Bill 1500/Senate Bill 800 as introduced in the 2011 General Assembly Session related to the change in the 2010-12 Composite Index of Local Ability-to-Pay, to the following school divisions as specified below.

Division	FY 2011	FY 2012
Accomack	\$3,227	\$0

Albemarle	\$4,764,870	\$0
Amelia	\$297,194	\$0
Amherst	\$60,109	\$0
Appomattox	\$425,139	\$0
Augusta	\$685,060	\$0
Bedford	\$3,020,106	\$0
Bland	\$62,632	\$0
Botetourt	\$207,021	\$0
Brunswick	\$173,041	\$0
Buchanan	\$52,623	\$0
Buckingham	\$434,828	\$0
Campbell	\$699,099	\$0
Carroll	\$277,922	\$0
Charles City	\$25,231	\$0
Charlotte	\$372,327	\$0
Chesterfield	\$3,337,388	\$0
Craig	\$50,307	\$0
Cumberland	\$185,603	\$0
Dinwiddie	\$460,183	\$0
Essex	\$896,203	\$0
Floyd	\$301,200	\$0
Fluvanna	\$399,009	\$0
Franklin	\$550,951	\$0
Giles	\$120,083	\$0
Gloucester	\$794,421	\$0
Grayson	\$747,477	\$0
Greene	\$508,202	\$0
Greensville	\$105,247	\$0
Halifax	\$1,367,177	\$0
Hanover	\$756,185	\$0
Henrico	\$1,416,474	\$0
Henry	\$53,507	\$0



Highland	\$86,275	\$0
Isle Of Wight	\$716,933	\$0
James City	\$2,104,293	\$0
King Queen	\$289,131	\$0
King William	\$490,641	\$0
Lancaster	\$134,490	\$0
Lee	\$350,489	\$0
Lunenburg	\$185,536	\$0
Madison	\$349,894	\$0
Mathews	\$389,874	\$0
Mecklenburg	\$1,399,422	\$0
Middlesex	\$469,293	\$0
Montgomery	\$288,685	\$0
Nelson	\$29,717	\$0
New Kent	\$382,089	\$0
Northumberland	\$602,435	\$0
Nottoway	\$478,065	\$0
Patrick	\$73,353	\$0
Pittsylvania	\$858,632	\$0
Powhatan	\$434,999	\$0
Prince Edward	\$505,466	\$0
Prince George	\$596,670	\$0
Pulaski	\$394,360	\$0
Richmond	\$136,026	\$0
Roanoke	\$850,081	\$0
Rockbridge	\$479,382	\$0
Rockingham	\$1,810,982	\$0
Russell	\$101,658	\$0
Smyth	\$234,606	\$0
Southampton	\$570,264	\$0
Surry	\$191,112	\$0
Sussex	\$366,849	\$0

Tazewell	\$650,056	\$0
Wise	\$325,964	\$0
Wythe	\$516,953	\$0
York	\$637,238	\$0
Buena Vista	\$7,377	\$0
Charlottesville	\$1,149,326	\$0
Colonial Heights	\$228,936	\$0
Danville	\$306,982	\$0
Galax	\$58,365	\$0
Hampton	\$4,197,169	\$0
Harrisonburg	\$107,034	\$0
Hopewell	\$124,485	\$0
Lynchburg	\$1,574,167	\$0
Martinsville	\$19,231	\$0
Newport News	\$4,339,173	\$0
Norfolk	\$8,306,660	\$0
Petersburg	\$699,085	\$0
Portsmouth	\$3,553,547	\$0
Radford	\$368,932	\$0
Richmond City	\$10,104,390	\$0
Roanoke City	\$1,302,013	\$0
Staunton	\$275,588	\$0
Suffolk	\$3,787,369	\$0
Virginia Beach	\$13,776,652	\$0
Waynesboro	\$487,129	\$0
Franklin City	\$311,213	\$0
Chesapeake	\$10,123,045	\$0
Lexington	201,417	\$0
Emporia	\$19,790	\$0
Bedford City	\$81,242	\$0
Poquoson	\$408,014	\$0
West Point	\$111,733	\$0

<b>Total Hold Harmless</b>	<b>\$108,122,023</b>	<b>\$0</b>
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### 33. Second Year Composite Index Hold Harmless Supplement

Out of this appropriation, ~~\$14,560,612 the second year from the general fund and \$2,000,000~~ *\$16,560,612* the second year from the Lottery Proceeds Fund shall be used to provide remaining partial hold harmless one-time grants related to the change in the 2010-12 Composite Index to the following school divisions specified below.

Albemarle	\$1,927,410
Amelia	\$1,625
Appomattox	\$11,358
Bedford County	\$796,942
Buckingham	\$40,974
Essex	\$356,561
Grayson	\$206,625
Greene	\$23,500
Halifax	\$167,637
Highland	\$36,801
James City	\$531,437
King & Queen	\$92,992
King William	\$61,216
Lancaster	\$34,290
Madison	\$65,727
Mathews	\$129,385
Mecklenburg	\$310,204
Middlesex	\$195,189
Northumberland	\$268,132
Nottoway	\$35,688
Prince Edward	\$38,889
Rockbridge	\$80,744
Southampton	\$39,834
Surry	\$58,326
Sussex	\$81,328
Charlottesville	\$415,542

Hampton	\$172,547
Lynchburg	\$127,727
Norfolk	\$1,406,251
Portsmouth	\$431,705
Radford	\$56,639
Richmond City	\$3,863,563
Suffolk	\$750,378
Virginia Beach	\$1,720,723
Franklin City	\$51,323
Chesapeake	\$1,899,111
Lexington	\$58,672
Poquoson	\$13,617
<b>Total Hold Harmless</b>	<b>\$16,560,612</b>

#### ~~34. Performance Pay Pilots~~

~~Out of this appropriation, \$3,000,000 the second year from the general fund shall be used to provide competitive grants to school divisions to pilot models for awarding performance pay for instructional personnel in hard-to-staff schools as determined by the Department of Education. School divisions interested in submitting proposals for competitive grants must outline clearly defined performance objectives. A significant component of the performance evaluation must include measureable and appropriate achievement goals for student progress, including the state provided growth measure when available. School division grant proposals are due to the Department of Education no later than June 15, 2011.~~

#### ~~35.~~34. Supplemental Support for School Operating Costs

Out of this appropriation an estimated ~~\$87,693,820~~ *\$51,500,691* the second year from the general fund *and \$36,081,566 the second year from the Lottery Proceeds Fund* shall be disbursed by the Department of Education to local school divisions for use solely for educational purposes based on the state's share of \$129.62 per pupil. This allocation is a one-time supplemental payment and these funds shall be matched by the local government, based on the composite index of local ability-to-pay.