



**VIRGINIA DEPARTMENT OF EDUCATION**

**REPORT**

**REPORT TO THE GOVERNOR  
AND GENERAL ASSEMBLY  
ON THE COSTS OF THE FEDERAL  
NO CHILD LEFT BEHIND ACT TO THE VIRGINIA  
DEPARTMENT OF EDUCATION**

**PRESENTED TO**

**VIRGINIA BOARD OF EDUCATION**

**September 21, 2005**

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## **EXECUTIVE SUMMARY**

The Virginia Department of Education (DOE) undertook to study the state agency and local school division costs of the 2001 “No Child Left Behind Act” (NCLB) in response to actions taken by the 2004 and 2005 General Assembly. Concurrently, the DOE joined a consortium of state departments of education, sponsored by the Council of Chief State School Officers (CCSSO) to develop a coordinated approach for analyzing the costs of NCLB for multiple states. The CCSSO contracted with Augenblick, Palaich and Associates (APA) to develop the model framework for states and local divisions to use to determine the activities and costs to implement NCLB.

The CCSSO initiative takes a two-part approach: first, states identify the costs of NCLB to the State Education Agency or SEA (in Virginia, the Department of Education) and, secondly, the Local Education Agencies or LEAs (in Virginia, local school divisions) determine their costs of implementing NCLB. This report, presented to and approved by the Board of Education, contains the findings on NCLB costs to the Virginia Department of Education. A separate, second report, issued concurrently, sets out the NCLB costs to Virginia’s LEAs.

Working with APA, the states participating in the CCSSO cost consortium broke the requirements of NCLB into seven major components for purposes of determining costs to both the SEAs and LEAs. All states participating in the NCLB cost consortium agreed to use the following major components: 1) Standards and Assessments; 2) Accountability; 3) Technical Assistance; 4) School Choice and Supplemental Services; 5) High-Quality Educators; 6) NCLB Data Management; and 7) Administration of NCLB and Title Programs.

Prior to the implementation of NCLB, Virginia had already established its own system of accountability. The Constitution of Virginia requires the Board of Education to determine and prescribe standards of quality for the public schools of Virginia, subject to revision only by the General Assembly. These codified standards, known as the Standards of Quality (SOQ), include requirements for Standards of Learning (SOL), teacher licensing, school accreditation, and student achievement. In 1995, the Virginia Board of Education (Board) took action to reform Virginia’s public education system by identifying what students should learn, regularly assessing student achievement in key areas, and making schools accountable for student achievement. The first statewide SOL tests were administered in the spring of 1998.

NCLB is not a new federal program but an overlay of new requirements on many existing federal programs, with additional funds provided to help states make the transition to an environment of annual student achievement tests. In Virginia, NCLB overlaid the state’s well-established, statewide system of assessment, accountability and support. It also presented reporting challenges to the Commonwealth because of differences between the existing state accreditation requirements and the federal measure of Adequate Yearly Progress (AYP). As a result, since the passage of NCLB, Virginia has been blending its accountability system with the requirements of NCLB, a process that has been administratively challenging to both state and local administrators and to the public.

Virginia's approach to determining the SEA costs related to NCLB entailed building three "tiers" of costs. First, the budget for each division within the SEA for the base fiscal year, 2004-2005, was developed for both personal and nonpersonal services (Tier I). Next, staff determined what costs were NLCB-related costs and eliminated all non-NCLB-related costs (Tier II). Finally, staff determined what Tier II costs were truly new costs as a result of NCLB, that is, costs resulting from activities that DOE would not have undertaken at any time except for NCLB requirements (Tier III). The final Tier III costs for the SEA were then assigned to the applicable cost structure components.

Because the state-level data collection method differed somewhat from that developed by APA, Virginia collaborated directly with APA on the study methodology. APA reviewed the final SEA study methodology and this report and found that the data collection method and the placement of the data in the CCSSO/APA cost structure is sound and consistent with the intended purpose of the component structure.

The figures presented in this report present estimates only, not precise expenditures or revenues. The cost study found that total estimated SEA costs for NCLB are covered by total projected federal revenues for the measurement period of the study. The major cost components were:

- Standards and Assessments, as a result of the new testing requirements under NCLB;
- Administration of NCLB and Title Programs, which includes the Reading First program, 21<sup>st</sup> Century Community Learning Centers, and English Language Proficiency;
- High Quality Educators, including data management activities and continuation of initiatives to develop and support high quality teachers and principals; and
- Technical Assistance for LEAs and Schools, including the development of strategies to help schools avoid falling into "in improvement status" and to assist LEAs with schools "in improvement status."

Because of the 2014 requirement for 100 percent student proficiency and because NCLB implementation decisions continue to be made as the result of waiver requests and other national issues, the results presented here could and most likely will change over time. Unanticipated needs at both the state and local level could quickly eradicate the modest surpluses found in this study. The SEA's ability to cover all estimated costs with available NCLB federal revenues is predicated upon its having the flexibility to use federal revenues to meet related needs across NCLB Title programs.

## **PART I: INTRODUCTION**

In 2004, pursuant to Item 144, paragraph E.5.b., of the 2004 Appropriation Act (Chapter 4, 2004 Acts of Assembly, Special Session I), the General Assembly required the Superintendent of Public Instruction to report on the status of the Virginia Department of Education's effort to estimate the cost impact of the federal "No Child Left Behind" (NCLB) Act. In 2005, the General Assembly passed Senate Bill 1136 and House Bill 2602 requiring the state Board of Education to examine the fiscal implications of NCLB at the state level and at the local level. The legislation requires the Board to report its findings to the House Committees on Education and Appropriations and the Senate Committees on Education and Health and Finance no later than October 1, 2005.

In the spring of 2004, the Department of Education (DOE) joined a consortium of state departments of education sponsored by the Council of Chief State School Officers (CCSSO). CCSSO is a nationwide, nonprofit organization composed of the officials who head each state's department of elementary and secondary education. CCSSO helps establish partnerships among member states to facilitate the study of educational issues. This consortium was formed to develop a coordinated approach for analyzing the costs of NCLB for multiple states. Virginia was one of a number of states that participated in this consortium.

The purpose of this NCLB cost consortium was to enable states to pool resources to estimate the cost of implementing the requirements of NCLB and to develop a consistent approach to doing so. The CCSSO contracted with Augenblick, Palaich and Associates, Inc. (APA) to develop a model framework for states to use to determine the activities required to implement NCLB and their associated costs. In addition to the benefits of a process developed in collaboration with other states, the CCSSO's use of a third party also brought independent objectivity to the process.

The CCSSO initiative takes a two-part approach: first, states identify the costs of NCLB to the State Education Agency or SEA (in Virginia, the Department of Education) and, secondly, the Local Education Agencies or LEAs (in Virginia, local school divisions) determine their costs of implementing NCLB. This report, presented to and approved by the Board of Education, contains the findings on NCLB costs to the Virginia Department of Education. A separate, second report issued concurrently, sets out the NCLB costs to Virginia's LEAs.

## **PART II: SCOPE AND METHODOLOGY**

### **Cost Structure**

Working with APA, the states participating in the CCSSO study broke the requirements of NCLB into seven major components for purposes of determining costs to both the State Education Agencies (SEAs) and local education agencies (LEAs). All states participating in the NCLB cost consortium agreed to use the following major components for costing out NCLB requirements:

Standards and Assessments  
 Accountability  
 Technical Assistance  
 School Choice and Supplemental Services  
 High-Quality Educators  
 NCLB Data Management  
 Administration of NCLB and Title Programs

Each of the seven components is subdivided into Areas, Areas are subdivided into Tasks, and Tasks are subdivided into Activities. Since the component structure reflects the combined work of all of the states, Virginia did not always identify costs in each of the Areas and Tasks identified but, rather, focused on those applicable to Virginia. However, Virginia did adhere to the overall structure down to the Task level and the SEA identified all of the Activities required to implement pertinent Tasks. Where staff identified no Activities, this was noted on the detailed spreadsheets. The list of Components, Areas, Tasks, and Activities for the SEA was submitted to the General Assembly in December of 2004. (Please note: The following link provides more information: [Virginia SEA listing of Components, Areas, Tasks, and Activities.](#))

This structure allows affected entities to develop their NCLB costs from the lowest level Activity and roll these costs up to the Task, Area, and Component levels. Given its size and organizational structure, the SEA, however, decided that it would produce more reliable data by modifying its data collection approach. It chose to generate budgets for the agency and each of its divisions using 2004-2005 as the base year and then working down from these budgets to identify new NCLB costs and assign these costs to the Task, Area, and Component levels.

### **Determination of State Costs**

The Constitution of Virginia requires the Board of Education to determine and prescribe standards of quality for the public schools of Virginia, subject to revision only by the General Assembly. These codified standards, known as the Standards of Quality (SOQ), include requirements for Standards of Learning (SOL), teacher licensing, school accreditation, and student achievement. In 1995, the Virginia Board of Education (Board) took action to reform Virginia's public education system by identifying what students should learn, regularly assessing student achievement in key areas, and making schools accountable for student achievement. The Board approved Standards of

Learning in English, history and social science, mathematics, and science for grades kindergarten through twelve, and technology Standards of Learning to be achieved by the end of grades five and eight. In addition, the Board began implementing a statewide system of assessment to measure student achievement and based school accreditation upon testing results. The first statewide SOL tests were administered in the spring of 1998.

Since then, Virginia has continued to develop and refine its accountability system. Concurrently, it participated in numerous federal grant programs that supported public education throughout the country. In 2001, Congress passed the No Child Left Behind Act (NCLB) that required states to ensure that all students achieve high standards, through attaining 100 percent proficiency in reading/language arts and mathematics by 2013-2014. Because of its rigorous SOL testing requirements for NCLB core subjects (i.e., English, mathematics, and science), Virginia was already focusing on the importance of student achievement.

NCLB is not a new federal program but an overlay of new requirements on many existing federal programs, with additional funds provided to help states make the transition to an educational environment of annual student achievement tests. In Virginia, NCLB overlaid the state's well-established, state system of assessment, accountability and support. It also presented reporting challenges to the Commonwealth because of existing state accreditation requirements and the federal measure of Adequate Yearly Progress (AYP). As a result, since the passage of NCLB, Virginia has been blending its accountability system with the requirements of NCLB, a process that has been administratively challenging to both state and local administrators and to the public. Because of this "blending" of state and federal reporting systems, the Commonwealth decided that determining *true, new costs* to Virginia of NCLB required a multi-step approach, in line with the efforts of the CCSSO cost consortium.

Virginia's approach to determining the SEA costs related to NCLB entailed building three "tiers" of costs. First, the budget for each division within the SEA for the 2004-2005 fiscal year was examined for both personal and nonpersonal services. The examination of personal services included an application of benefit rates. Nonpersonal services were reviewed in terms of the nature of the services (contracts, grants to LEAs, training activities). Federal revenues were captured by award year, using the 2004-2005 state fiscal year and corresponding federal fiscal year as the base. An overhead rate was applied to all new NCLB costs identified in the SEA report in order to capture costs related to the provision of general administrative support to NCLB.

The fiscal year 2004-2005 budget was projected out for three fiscal years through 2007-2008. For each fiscal year after 2004-2005, the previous year was used as the base, with the addition of any anticipated, new positions, plus costs for any new initiatives or requirements that are to be implemented, as well as any reductions in funds as a result of reallocations or the end of a specific grant. In each year, the projected budget was inflated to accommodate changes in benefit rates and general inflationary trends, where applicable. This total budget became the first tier (Tier I). Each division's Tier II budget was then developed through discussion with key program staff to determine which costs and associated personnel were NCLB-related costs. At this point, all other

non-NCLB costs were eliminated from the division's budget for the purposes of this study. Once the Tier II budget was developed, each division's Tier III budget was developed, also based on discussions with program staff, on what costs were true, new costs as a result of NCLB, i.e., activities (and the resources needed to accomplish them) that DOE would not have undertaken at any time except for NCLB requirements.

The final Tier III costs for DOE were then assigned to the applicable cost structure Components, Areas, Tasks, and Activities. These costs are shown in Part III of this study.

Part IV of the study compares federal revenues directly related to state-level costs in Virginia. These revenues use the U. S. Department of Education (USED) NCLB grants approved for Virginia in federal fiscal year 2004-2005 and apply a three percent growth rate to those amounts for subsequent years. In all years, the numbers reflect the same SEA "set aside" for administrative costs as those approved for Virginia in state fiscal year 2004-2005. The revenues shown in Part IV are based upon the state/federal fiscal year award amount and do not take into consideration those federal grants "carried over" for expenditure in future years. The federal grants shown in Part IV mirror the federal grants identified by USED as being directly linked to NCLB.

### **Limitations of the Study**

All costs contained in this study represent a "snapshot in time" using the SEA's budget for 2004-2005 as the base year and do not represent an audit of state NCLB costs. The study uses a conservative approach in estimating state costs incurred as a result of NCLB. It does not capture every single cost in state and federal dollars but focuses on documenting significant new costs to the SEA from 2004 through 2008. Because NCLB overlaid Virginia's established and strong accountability system, the study does not document Virginia's original costs in developing its accountability system. Rather, the study documents only those new estimated costs resulting from NCLB. The study focuses only on cost and does not evaluate any aspect of NCLB's programs or policies in Virginia.

Finally, this study is not an "adequacy" study; that is, it does not project the costs to the state of 100 percent student achievement of proficiency in reading/language arts and mathematics by 2013-2014 as required by NCLB.

**PART III: STATE-LEVEL FINDINGS**

As described in Part II, the summaries of the component costs in this section are based on the Tier III budgets developed for each division within the SEA and then distributed among the appropriate NCLB components.

**COMPONENT 1A: STANDARDS AND ASSESSMENTS**

<b>COMPONENT 1A – STANDARDS AND ASSESSMENTS SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Create and administer assessments for Reading	\$2,686,052	\$2,690,250	\$2,815,229	\$2,922,708
Create and administer assessments for Math	\$3,282,953	\$3,288,083	\$3,440,836	\$3,572,198
Create assessments for Limited English Proficient students (LEP)	\$241,807	\$372,910	\$497,788	\$772,453
Create alternative assessments for eligible Special Education students	\$1,091,036	\$1,405,914	\$950,806	\$979,865
<b>Standards and Assessments TOTAL COST</b>	<b>\$7,301,848</b>	<b>\$7,757,157</b>	<b>\$7,704,659</b>	<b>\$8,247,224</b>

This component includes the two major elements needed to build a statewide accountability system for public education: the content standards for student achievement, and the assessments that measure the levels of that achievement.

**Standards and Assessments**

At the time that NCLB was enacted, Virginia had already developed and implemented its own content standards of student achievement, the Standards of Learning (SOL). The following table shows the tests Virginia was administering prior to NCLB (note: high school SOL tests are considered “end of course” tests that provide verified credits towards graduation) as well as how NCLB has affected Virginia’s SOL test structure.

## VIRGINIA DEPARTMENT OF EDUCATION

Virginia Standards of Learning Tests Pre-NCLB		Virginia Standards of Learning Tests Post-NCLB	
GRADE	SOL TESTS	GRADE	SOL TESTS
3	English Mathematics History and Social Science Science	3	English: Reading Mathematics History and Social Science Science
4	N/A	4	English: Reading Mathematics Mathematics (Plain English Math)
5	English: Reading English: Writing Mathematics Mathematics History and Social Science Science	5	English: Reading English: Writing Mathematics Mathematics (Plain English Math)  Science
6	N/A	6	English: Reading Mathematics Mathematics (Plain English Math)
7	N/A	7	Mathematics Mathematics (Plain English Math)
8	English: Reading English: Writing Mathematics History and Social Science Science	8	English: Reading English: Writing Mathematics History and Social Science Science
High School	Algebra I Algebra II Geometry Earth Science Biology Chemistry World History (I) to 1500 A.D. World History (II) from 1500 A.D. to the present Virginia and U.S. History World Geography	High School	Algebra I Algebra II Geometry Earth Science Biology Chemistry World History (I) to 1500 A.D. World History (II) from 1500 A.D. to the present Virginia and U.S. History World Geography
Content Specific Tests (not grade specific or related to NCLB)	Virginia Studies U.S. History to 1877 U.S. History from 1877 to present Civics and Economics	Content Specific Tests (not grade specific or related to NCLB)	Virginia Studies U.S. History to 1877 U.S. History from 1877 to present Civics and Economics

Before the passage of NCLB, Virginia was administering SOL tests for grades three, five, and eight, which were cumulative in nature. In order to meet NCLB requirements, not only did English and mathematics tests for grades four, six, and seven have to be developed, but also the existing tests for

grades three, five, and eight had to be modified to address grade-specific content. The costs to develop annual tests for grade four, six, and seven are considered new costs because NCLB requires annual testing in grades three through eight for reading and mathematics by 2005-2006 and at least one time each in science in elementary, middle, and high schools by 2007-2008. In addition to test development, there are also additional costs for testing and scoring these annual assessments included in this study.

Virginia was already meeting the NCLB science requirement (i.e., by 2007-2008, all states must administer science tests in at least one grade level in elementary, middle, and high school) except for the provision of the test in plain language format for limited English proficiency (LEP) students. Costs of developing the plain language science tests are also considered new NCLB costs.

### **Assessments for Students with Disabilities**

The NCLB Act requires that all students, including those with disabilities, be assessed on statewide accountability measures for the purpose of measuring Adequate Yearly Progress (AYP). The federal Individuals with Disabilities Education Act (IDEA) and NCLB require states to create alternative assessments for students unable to take the general statewide assessments and directs that these alternative assessments yield results for the grade in which the student is enrolled in at least reading/language arts, mathematics, and, beginning in the 2007-2008 school year, science.

As a result of these requirements, Virginia has made substantial changes to the testing options it offers to students with disabilities and now tests annually instead of every three years, which was the schedule prior to NCLB. Students with disabilities now have several options for participating in the regular state accountability assessments, as described below.

1. Students may participate in the SOL with no accommodations or they may participate in the SOL assessments with standard or non-standard accommodations. Providing these test accommodations can be costly. Because of the increased frequency of testing under NCLB, Virginia has incurred new costs in this area.
2. A student who does not receive instruction in the areas of English, mathematics, science, and history based on the Virginia Standards of Learning may qualify to participate in the Virginia Alternate Assessment Program (VAAP), which was developed as a result of the IDEA amendments of 1997. The VAAP is designed to evaluate the performance of students who have traditionally been excluded from statewide testing programs by extending accountability and reform to these students. Participation in VAAP is determined on an individual basis by an Individualized Education Program (IEP) team. A student with significant cognitive disabilities may take this test to measure performance against alternative achievement standards.

3. A relatively small number of students with disabilities may be eligible to participate in the Virginia Substitute Evaluation Program (VSEP) as a means of verifying high school credits towards graduation. VSEP is an assessment system based on a student's work sample collection of evidence and is designed for students working on SOL-based curriculum and needing accommodations not allowed on SOL assessments. Virginia anticipates an increase in the VSEP tests in the coming years. The extent of this increase is not known and the fiscal implications cannot be determined at this time.
4. Finally, students with disabilities in grades 3 through 8 may take alternative assessments that measure grade level content—the Virginia Grade Level Alternative (VGLA). This test, which was first administered in the spring of 2005, requires students to demonstrate individual achievement of grade level content standards as presented in SOL test blueprints. Virginia developed this test directly in response to NCLB; therefore, development and administration of the test have been classified as a new cost.

Under NCLB, each of these assessment options requires potential participants to meet specific criteria. States are required to report separately on the percentage of students with disabilities taking alternate assessments (e.g., VAAP) that are measured against alternate academic achievement standards, and the percentage of students with disabilities taking alternate assessments that are measured against regular achievement standards.

The requirements of NCLB have increased the complexity and frequency of testing of Virginia students with disabilities. Additional resources will be needed to fund these tests in future years.

### **Assessments for Students with Limited English Proficiency**

Prior to NCLB, Virginia's accountability system also provided exemptions to SOL testing to students identified as limited English proficient (LEP), within certain guidelines. NCLB requires additional forms (plain language) of the tests for grades three through eight for certain LEP students and requires that all LEP students be tested for proficiency.

### **Standard Setting**

As a result of the implementation of new tests and testing procedures under NCLB, Virginia will also have to set new standards for these tests beginning in 2005-2006. The nature of the standard setting is still under consideration at this time and no cost estimates are available.

**Summary**

The cost analysis found that, for the study period of 2004-2008, the new costs of annual assessments as a result of NCLB were incurred in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
Testing for Additional Grades	New annual tests for grades four, six, and seven in reading and math.
Plain Language Tests and Stanford English Language Proficiency Test (SELP)	New tests for LEP students in mathematics and science. Costs related to the SELP test include the annual development of new forms as well as the costs for administration, scoring, and reporting where the SELP test is used as a proxy for the SOL.
Alternative Assessments Testing	New alternative tests for Special Education students.
Special Forms	Forms (i.e. Braille, large print and audio).

**COMPONENT 1B: ACCOUNTABILITY SYSTEM**

<b>COMPONENT 1B – ACCOUNTABILITY SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Create a comprehensive NCLB Accountability system	\$25,469	\$26,008	\$26,910	\$27,784
Create and disseminate AYP accountability reports	\$110,368	\$112,702	\$116,609	\$120,399
Determine annual AYP status of schools, districts, and state	\$113,198	\$115,591	\$119,599	\$123,487
Train district and school staff to interpret AYP data	\$33,959	\$34,677	\$35,880	\$37,046
<b>Accountability TOTAL COST</b>	<b>\$282,994</b>	<b>\$288,978</b>	<b>\$298,997</b>	<b>\$308,716</b>

Accountability refers to the design and operation of a system by which schools and school divisions are evaluated in relation to standards of achievement. Under the current accountability system (established in Virginia prior to the enactment of NCLB), schools are accredited based upon the passage rate for tests in the four areas (i.e., English, mathematics, science, and history/social studies) for elementary, middle, and high schools. NCLB requires that states report student performance information in terms of the AYP for students and subgroups of students in reading and mathematics at the school, division, and state levels. By 2014, all students must demonstrate 100 percent proficiency in reading and mathematics. In Virginia, participation in and performance on SOL tests in reading and mathematics will be the primary measure for determining AYP. In order for AYP to be met in accordance with Annual Measurable Objectives (AMOs) determined by Virginia and the USED, students in all subgroups must be tested and meet AMOs through test performance and participation.

Virginia had completed the initial development of an AYP measurement methodology and corresponding reporting mechanisms prior to the cost study’s base year. However, the resources needed to implement the continuing evolution of AYP represent ongoing, new NCLB costs to the state. Presumably, once AMOs reach 100 percent by 2013-2014, the state will still require ongoing resources to determine annual AYP for Virginia schools. In addition, the SEA provides technical assistance to LEAs regarding the collection and use of AYP data.

NCLB requires that test data and student data collected at testing be assembled and reported in greater and different detail and in different formats from that which Virginia was using under its own accountability system. Virginia was collecting data on student test pass rates in order to evaluate and determine individual school accreditation. NCLB’s data collection system is based on the determination of AYP. This has affected not only Virginia’s data management activities, but

also its entire assessment program. Since these USED requirements continue to change, Virginia is incurring ongoing costs in complying with these requirements. It is also working to more closely align its existing system of accreditation with AYP.

**Summary**

The cost analysis found that, for the study period of 2004 to 2008, the new costs of accountability as a result of NCLB were incurred in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
System development	Ongoing system development and modification of accountability system.
AYP Calculation	Determining AYP status and disseminating reports.
Technical Assistance to LEAs	Training local division and school staff to interpret AYP reports.

**COMPONENT 2A: TECHNICAL ASSISTANCE AND SUPPORT SYSTEMS**

<b>COMPONENT 2A – TECHNICAL ASSISTANCE FOR LEAs AND SCHOOLS SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Create a technical assistance and support system for LEAs and schools	\$29,957	\$29,996	\$30,912	\$30,788
Provide technical assistance and support for LEAs	\$1,323,813	\$1,450,516	\$1,474,593	\$1,491,532
Develop a state recognition program for schools and educators	\$618,000	\$618,000	\$618,000	\$618,000
<b>School Improvement Strategies TOTAL COST</b>	<b>\$1,971,770</b>	<b>\$2,098,513</b>	<b>\$2,123,506</b>	<b>\$2,140,320</b>

In its work with the CCSSO, APA has defined this component in the following manner: under NCLB, Technical Assistance for LEAs and schools describes the services that the state provides to LEAs and Title I schools that do not meet AYP and are, therefore, classified in one of five status levels (i.e., schools in need of improvement – year one, schools in need of improvement – year two, schools requiring corrective action, schools planning for restructuring, and schools that are restructuring). NCLB specifies the different actions that must be taken by the SEA or the LEA to address school improvement for each status level.

Prior to NCLB, Virginia had an accountability system in place through the Board of Education’s Standards of Accreditation (SOA) and accredited its public schools based on benchmarks of student performance on SOLs. The SEA has been conducting academic reviews for divisions that have difficulty meeting accreditation benchmarks. To strengthen the academic review process, beginning with the 2004-2005 school year, the state implemented a new system of conducting academic reviews, consisting of three tiers, described as follows:

<b>Review Classification</b>	<b>Characteristics of Schools – State Accreditation</b>	<b>Characteristics of Schools – AYP Purposes</b>	<b>Other Information</b>
Tier I	Any school warned in the same content area in either of the past two years or any school warned in three or more content areas	Title I school warned in English and/or mathematics that did not meet AYP	School could meet either state or AYP conditions for Tier I review

<b>Review Classification</b>	<b>Characteristics of Schools – State Accreditation</b>	<b>Characteristics of Schools – AYP Purposes</b>	<b>Other Information</b>
Tier II	Any school warned in science and/or history/social sciences with a pass rate more than 14 points lower than that required for full accreditation	Title I school warned in English and/or mathematics that did not make AYP or Non-Title I school warned in English and/or mathematics that did not make AYP	School could meet either state or AYP conditions for Tier II review
Tier III	Any school warned in science and/or history/social science with pass rate within 14 points of that required for full accreditation or Non-Title I school warned in English and/or mathematics that did not make AYP	None	N/A

Tier I is the most costly academic review for the state to administer followed by Tiers II and III. Tier I is the only Tier that is defined as a new cost to the SEA under the parameters of this study.

In 2004-2005, a total of 198 schools were under academic review. Of these, 32 or 16 percent were Title I low-performing schools in Tier I. Costs associated with Tier I reviews of Title I schools are deemed to be new NCLB-related costs.

Of the 765 Title I schools in Virginia, 111 or 15 percent were classified as "in improvement status" schools in the 2004-2005 school year. The state anticipates that more schools could move into this status with the new testing standards for students with disabilities are implemented and, possibly, in 2007-2008, when the AMOs currently approved for Virginia change. The SEA projects an increase in the demand for academic reviews in 2005-2006 and again in years subsequent to the measurement period for this study, even though best practices are being refined and internal efficiencies achieved. With the increase in AMOs, those divisions exiting review will be replaced by others having difficulty making AYP.

There are additional new costs tied directly to technical assistance related to consultants and evaluators to develop strategies to help schools avoid "in improvement status." Through these programs, the SEA provides direct technical assistance and support to LEAs with schools "in improvement status", to LEAs with schools not yet incurring improvement status designations, and to LEAs with schools not receiving Title I funding.

New NCLB costs to the state in this component also include the administration of Title I Distinguished Schools and Title I Distinguished Educators recognition programs. Under NCLB, states must establish a program to recognize schools that significantly close the achievement gap and exceed AYP targets for two more consecutive years. States must also recognize and provide awards to teachers teaching in distinguished schools. The amount of federal funding set aside for these programs varies depending upon the level of Title I SEA funding available. For the purposes of this study, the level of funding provided for these programs is expected to remain static over the measurement period.

In the area of technical assistance, the Virginia General Assembly has provided state funding for an initiative that is directly linked to NCLB. The Partnership for Achieving Successful Schools (PASS) is a statewide initiative that fosters intense community involvement with schools having difficulty reaching targeted levels of academic performance through partnerships with the community. For fiscal year 2005-2006, state funding of approximately \$274,000 is provided. Because state funding has been earmarked to fund this initiative, it is not categorized as a new NCLB cost within the parameters of this study.

**Summary**

The cost study found that, in the area of technical assistance to LEAs, the major new NCLB costs to Virginia were in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
Technical assistance/Academic Review	Assistance for schools "in improvement status."
Recognition program	Title I Distinguished Educators and Title I Distinguished Schools.

**COMPONENT 2B: SCHOOL CHOICE AND SUPPLEMENTAL SERVICES**

<b>COMPONENT 2B – SCHOOL CHOICE AND SUPPLEMENTAL EDUCATION SERVICES SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
<b>© Augenblick, Palaich and Associates, Inc.</b>				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Create the school choice and supplemental education services system	\$118,786	\$125,090	\$520,427	\$520,231
Offer school choice	\$112,123	\$118,073	\$504,552	\$504,552
Offer supplemental education services	\$114,916	\$121,015	\$136,106	\$136,106
Administer Component 2B	\$38,318	\$40,352	\$45,384	\$45,384
<b>Supplemental Education Services TOTAL COST</b>	<b>\$384,144</b>	<b>\$404,530</b>	<b>\$1,206,468</b>	<b>\$1,206,272</b>

School Choice and Supplemental Services refer to NCLB stipulated consequences that the SEA and LEA must impose on Title I schools not meeting AYP. Schools in need of improvement, year one, must provide students attending the school with the option to attend another school, served by the LEA, that is not in improvement, and provide for transportation. Schools in need of improvement, year two, must continue to offer the year 1 option and offer supplemental education services to eligible students by providing tutoring, remediation, and academic services outside of the school day, using a provider list approved by the Board of Education, and sending parents an annual notice of approved services/providers. Schools in year three must undertake corrective actions including, but not limited to, school staff replacement and restructuring, in addition to continuing to offer the years one and two options.

The cost analysis found that, at the SEA level, all costs in implementing the NCLB requirements for supplemental education services and school choice for schools in improvement are new costs. The reason for this is that Virginia would not have structured technical assistance in this manner if NCLB did not require it. These costs cover the SEA’s provision of technical assistance to LEAs in meeting the school choice and supplemental education services requirements and providing training. It is likely that, in future years, the number of Virginia schools having difficulty making AYP will increase as AMOs change, thus increasing the need for SEA technical assistance to LEAs for school choice and supplemental services.

Virginia had already created an Electronic Classroom prior to NCLB as a means of providing distance learning to students where a qualified educator is unavailable or the number of qualifying

students is too few to justify employment of a full-time instructor. It is likely that the need for distance learning, delivered through means such as the Electronic Classroom, will increase as more schools have difficulty meeting AYP and more schools are required to offer public school choice (possibly via a “virtual” school choice option). In some rural areas of the state, where school choice is not a viable option, the Electronic Classroom or similar initiatives may be the only alternative for some students regarding school choice. In addition, some schools may also use the Electronic Classroom as a strategy to increase the achievement of “at risk” students.

**Summary**

The cost study found that the entire component of School Choice and Supplemental Education Services is a new NCLB cost to Virginia because of the way in which the service delivery must be structured. The major new NCLB costs were in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
Development of School Choice and Supplemental Education Services programs	Create and offer these services, including expansion of Electronic Classroom as a school choice option.
Ongoing Technical Assistance to LEAs in implementing School Choice and Supplemental Education Services	Staff time projected to increase as more schools in the state acquire improvement status designations.

**COMPONENT 3: HIGHLY QUALITY EDUCATORS**

<b>COMPONENT 3 – HIGH QUALITY EDUCATORS SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Develop a High Quality Educator System	\$298,251	\$334,956	\$142,883	\$144,671
Ensure High Quality Teachers	\$1,142,471	\$1,320,599	\$1,146,590	\$1,189,436
Ensure High Quality Paraprofessionals	\$265,112	\$297,739	\$127,007	\$128,596
Ensure High Quality Principals and Other Administrators	\$248,543	\$279,130	\$119,069	\$120,559
Attract and Retain High Quality Educators	\$1,109,332	\$1,301,041	\$1,148,374	\$1,160,826
Reporting System for High Quality Educators	\$281,682	\$316,348	\$134,945	\$136,633
Administer Component 3	\$33,139	\$37,217	\$15,876	\$16,075
<b>High Quality Educators TOTAL COST</b>	<b>\$3,378,530</b>	<b>\$3,887,031</b>	<b>\$2,834,743</b>	<b>\$2,896,795</b>

NCLB requires that teachers of core academic subjects, hired after the first day of the 2003-2004 school year and teaching in a program supported with NCLB federal grant funds, must be “highly qualified.” SEAs must develop plans with targets that ensure that all teachers in the NCLB core academic subjects are “highly qualified” by the end of the 2005-2006 school year. Core academic subjects are defined under NCLB as English, reading or language arts, mathematics, science, foreign language, civics and government, economics, arts, history, and geography.

For Virginia, the term "highly qualified" used in reference to any public elementary, middle, or secondary school teacher in the core academic subjects means that the teacher holds full state licensure as a teacher, including licensure through alternate routes, and teaches only in the area or areas of endorsement. In addition, a teacher who is entering the profession through an alternate route program may meet the definition of a highly qualified teacher if the participant in the

program: (1) is permitted by the state to assume functions as a regular classroom teacher; (2) has a bachelor's degree; (3) has demonstrated subject matter competence by passing the state professional teacher assessments; and (4) is making satisfactory progress toward full licensure, as prescribed by the Board of Education.

Additional requirements for “highly qualified” also apply to special education teachers, paraprofessionals, and others who interact with students in public schools. These standards exceed those that were in place for Virginia Title I schools prior to NCLB. Therefore, costs to implement these standards are new, NCLB-related costs.

In 2002, Virginia began a series of Teacher Quality Enhancement initiatives, all of which were funded by a one-time, federal NCLB grant. These initiatives will continue through the measurement period of this study and beyond. Federal funds for these initiatives will not be available after January 2007 and additional resources will be needed to continue these programs.

Virginia has used the bulk of the funds for high quality educators to develop the Teacher Education and Licensure System (TEAL). TEAL I, which is the first phase of the system, compiles data on teacher education and licensure since, in order to determine if teachers are highly qualified, the state must track all approximately 93,000 state teachers and maintain data on their credentials. TEAL II, which will be developed by October 1, 2006, builds upon TEAL I and will track where state education graduates go for employment. The development of TEAL I and II was funded by the one-time federal grant noted above, which will be expended January of 2007. Additional resources will be needed to maintain the system in future years, once this grant has been expended.

In the area of high quality educators, the SEA has implemented several new initiatives, approved and funded with state revenues by the Virginia General Assembly. These initiatives are directly linked to NCLB but not considered true, new costs in the context of this study because state funding has been provided. The programs encompass a number of strategies designed to improve student achievement. These programs as described as follows:

<b>Initiative Title</b>	<b>Descriptor</b>	<b>Estimated State Funding Level For Fiscal Year 2005-2006</b>
Virginia Middle School Teacher Corps	This teacher corps reinforces the quality of mathematics instruction at the middle school level to prepare students for high school.	\$75,000
Turnaround Specialists	This program trains educators to become credentialed “turnaround specialists,” who will serve as principals of low-performing schools for a minimum of three years.	\$469,000

**Summary**

The study found that, in the area of high quality educators, the major new NCLB costs to the SEA were in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
TEAL I (ongoing maintenance) and TEAL II (development and ongoing maintenance)	Data collection system to provide information on teachers and teacher quality.
Great Virginia Teach-In initiative	Statewide teacher recruitment and information conference.
Job Bank	On-line job bank and job application service.
Teachers of Promise	Provide prospective teachers with professional development experiences.
Teachers for Tomorrow	Efforts to attract and retain teacher candidates through exposure to the education curriculum in high school.

**COMPONENT 4: NCLB DATA MANAGEMENT**

<b>COMPONENT 4 – NCLB DATA MANAGEMENT SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
NCLB – data management projects list	\$2,997,776	\$400,000	\$400,000	\$400,000
<b>NCLB Data Management TOTAL COST</b>	<b>\$2,997,776</b>	<b>\$400,000</b>	<b>\$400,000</b>	<b>\$400,000</b>

NCLB requires the SEAs and LEAs to collect, organize, report, and distribute large amounts of information about public schools, students, teachers, etc. This component includes both the software and hardware required to accomplish the NCLB data requirements.

Prior to NCLB, in 1998, Virginia committed to building an Education Information Management System (EIMS) over ten years to fully integrate all existing department data into one database and reporting system. The SEA placed the system specifications out for bid in 2003 and has scheduled completion of the basic system for 2013. Approximately 30 to 40 percent of the NCLB requirements were met with the existing database system but large parts of the database had to be redesigned, primarily because of disaggregation of subgroup data for determination of individual school AYP. With the approval of the USED, Virginia was able to shift some federal assessment grant awards to upgrade and expand EIMS through state fiscal year 2004-2005. Beginning in 2005-2006, the Virginia General Assembly has appropriated approximately \$3.25 million (excluding personnel costs) in general funds for this purpose. Because support of the EIMS system has been funded through state revenues, the costs related to this student information system are excluded from this analysis after fiscal year 2004-2005, the year in which the costs of the system were funded through federal revenues.

The new NCLB costs shown for this component do not include any expansion of the Standards of Learning web-based technology initiative, which was established before the implementation of NCLB. This initiative provides funding to local school divisions for assistance in the development of automated instructional and testing systems for the SOLs. The state issues bonds in order to provide the funds to school divisions and pays debt service on the bond issuance. The program is intended to provide automation to all elementary and secondary schools. As more schools become automated, testing administration efficiencies may be achieved at both the state and local level in future years.

**Summary**

The cost study found that, for NCLB data management, the major new NCLB costs to Virginia were in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
Completion of projects list	Continuation of technical assistance to LEAs.

**COMPONENT 5: ADMINISTRATION OF NCLB AND TITLE PROGRAMS**

<b>COMPONENT 5 – ADMINISTRATION OF NCLB AND TITLE PROGRAMS SUMMARY SHEET— NCLB COSTS OVER TIME</b>				
© Augenblick, Palaich and Associates, Inc.				
<b>MAJOR AREA</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Title 1: Improving the Academic Achievement of the Disadvantaged	\$3,485,716	\$4,017,078	\$4,046,211	\$4,010,415
Title III: Language Instruction for Limited English Proficient	\$363,670	\$419,108	\$422,147	\$424,912
Title IV: 21 <sup>st</sup> Century Schools	\$769,760	\$855,926	\$892,295	\$898,089
<b>Title Programs &amp; Administration TOTAL COST</b>	<b>\$4,619,147</b>	<b>\$5,322,111</b>	<b>\$5,360,653</b>	<b>\$5,333,416</b>

This component includes the costs to the SEA of administering all programs included in NCLB that have not been reported in other components. This component includes the costs of personnel, contracts, and activities that could not easily be placed within a previous component.

For Virginia, new NCLB administrative costs included in this component are the Reading First program, 21<sup>st</sup> Century Community Learning Centers, the English Language Acquisition (Title III) grant, and the Safe and Drug-Free Schools grant.

**Summary**

The cost analysis found that, for the study period of 2004-2008, the major new costs of administration as a result of NCLB were incurred in the following areas:

<b>Initiative</b>	<b>Descriptor</b>
Reading First	Provides funds to train teachers in the essential components of reading and to select and administer screening, diagnostic and classroom-based instructional reading assessments to identify those children who may be at risk of reading failure. Funds are also provided for professional development for special education teachers, kindergarten through grade 12.
21 <sup>st</sup> Century Community Learning Centers	Provide academic enrichment opportunities along with activities designed to complement the students' regular academic program. Community learning centers must offer families of these students literacy and related educational development.
English Language Acquisition	Provides funds for professional development and technical assistance related to teaching children who are limited English proficient.

**SUMMARY OF VIRGINIA’S STATE-LEVEL COSTS REQUIRED FOR COMPLIANCE WITH NCLB**

<b>Virginia Department of Education Estimated New NCLB Costs Related to the Federal No Child Left Behind Act</b>				
<b>Component Summary</b>	<b>Year One 07/04-06/05</b>	<b>Year Two 07/05-06/06</b>	<b>Year Three 07/06-06/07</b>	<b>Year Four 07/07-06/08</b>
Standards and Assessments	7,301,848	7,757,157	7,704,659	8,247,224
Accountability	282,994	288,978	298,997	308,716
Technical Assistance	1,971,770	2,098,513	2,123,506	2,140,320
Supplemental Services/School Choice	384,144	404,530	1,206,468	1,206,272
High Quality Educators	3,378,530	3,887,031	2,834,743	2,896,795
Data Management	2,997,776	400,000	400,000	400,000
NCLB Administration	4,622,812	5,345,826	5,385,468	5,411,147
<b>TOTAL IDENTIFIED NEW NCLB COSTS</b>	<b>20,939,872</b>	<b>20,182,034</b>	<b>19,953,841</b>	<b>20,610,475</b>

**PART IV: FEDERAL NCLB REVENUES COMPARED WITH STATE-LEVEL COSTS IN VIRGINIA**

Virginia Department of Education SEA Revenue Related to the Federal No Child Left Behind Act				
	Year One 07/04-06/05 Based on Actual Awards	Year Two 07/05-06/06 Estimation	Year Three 07/06-06/07 Estimation	Year Four 07/07-06/08 Estimation
<i>Summary of Title I Federal Grants Directly Related to NCLB – SEA Allocation</i>				
Title I: Academic Achievement of the Disadvantaged	1,955,885	2,016,700	2,079,405	2,144,060
Title I Part B – Reading First	3,385,647	3,490,917	3,599,460	3,711,378
Title I Part B – Even Start	208,982	215,480	222,180	229,088
Title I Part C – Migrant Education	7,996	8,245	8,501	8,765
Title I Part D – Neglected or Delinquent Children	0	0	0	0
Title I Part F – Comprehensive School Reform	275,410	283,973	292,803	301,907
<b>Subtotal, Title I Grants</b>	<b>5,833,920</b>	<b>6,015,314</b>	<b>6,202,348</b>	<b>6,395,198</b>
<i>Other NCLB Awards – SEA Allocation</i>				
Title II Part A – Improving Teacher Quality	1,807,741	1,863,949	1,921,904	1,981,662
One-Time Title II Teacher Quality Grant (to expire after Year Two) <sup>1</sup>	1,656,951	1,860,869		
Title III, Part B – Mathematics and Science Partnerships	119,403	123,116	126,944	130,891
Title II Part D – Enhancing Education Through Technology	516,723	403,994	416,555	429,507
Title IV Part B – 21 <sup>st</sup> Century Community Learning Centers	755,039	778,515	802,722	827,681
Title V Part A – Innovative Programs	1,039,131	1,071,441	1,104,755	1,139,105
Title IV Part A – State Assessments, Improving Academic Achievement	8,565,602	8,831,932	9,106,543	9,389,692
Title VI, Part B – Rural & Low-Income Schools	58,299	60,112	61,961	63,908
Title IV Part A – Safe & Drug-Free Schools & Communities	457,794	472,028	486,705	501,838
Title III, Part A – English Language Acquisition	363,670	374,978	386,637	398,658
<b>Subtotal, Other NCLB Awards</b>	<b>15,340,352</b>	<b>15,840,932</b>	<b>14,414,745</b>	<b>14,862,942</b>
<b>TOTAL AVAILABLE FEDERAL RESOURCES<sup>2</sup></b>	<b>21,174,273</b>	<b>21,856,246</b>	<b>20,617,093</b>	<b>21,258,139</b>
<b>TOTAL IDENTIFIED NEW NCLB COSTS<sup>3</sup></b>	<b>20,939,872</b>	<b>20,182,034</b>	<b>19,953,841</b>	<b>20,610,475</b>
<b>SURPLUS/(SHORTFALL)</b>	<b>234,400</b>	<b>1,674,212</b>	<b>663,252</b>	<b>647,664</b>

**Footnotes:**

<sup>1</sup>This one-time grant (awarded in federal fiscal year 2002) is being used to fund a number of NCLB initiatives relating to high quality educators. It is anticipated that the initiatives will be continued in the out years once the grant funds have been expended. The federal revenue stream is higher in years one and two because of the inclusion of this one-time grant.

<sup>2</sup>The forecast shown here does not take into consideration the carryforward expenditure “window” for federal funding, with the exception of the Title II Teacher Quality grant noted in footnote 1. To summarize, federal grant monies carried forward between fiscal years are not included in this analysis. To forecast federal revenues, a 3% escalator has been used in years two through four. Fiscal year 2004-2005 SEA administrative set-aside percents are assumed to remain constant over the measurement period.

<sup>3</sup>Figures represent new NCLB costs – not the costs for programs implemented by the department that are related to NCLB and support the Commonwealth’s accountability system in place prior to the passage of NCLB.

The revenues shown in this chart represent the estimated SEA allocation to Virginia from all NCLB-related federal grants, including those that existed prior to the implementation of the Act. The costs represented in the chart are those true, new NCLB costs, without including those NCLB cost requirements that constitute an overlay of existing state accountability and support efforts. Revenues and costs are shown in this manner for the SEA because the department comprehensively re-aligned operations in order to implement a statewide system of support that effectively assimilated the requirements of NCLB with the SEA's existing state accountability system. All NCLB-related grants supported and continue to support this effort.

Federal revenues are estimated to increase by three percent each year. The three percent figure was derived through calculating the average increase between 2003 and 2004, using actual data supplied by the U.S. Department of Education (USED).

The figures in the chart show that, at the SEA level, estimated federal revenues are sufficient to cover the true, new NCLB projected costs for both the 2004-2006 biennium and for the 2006-2008 biennium. These figures aggregate all revenues and costs and do not examine resources at the individual federal program level. There may be instances where the resources of these discrete federal programs (i.e. Title VI, Part A – State Assessments) may not be sufficient to cover program expenditures now and in future years.

## PART V: CONCLUSIONS

The cost study found that total estimated new SEA costs related to NCLB are covered by total projected revenues for the measurement period of the study. The results indicate that Virginia's SEA costs of complying with NCLB are funded at this time and should remain so for the foreseeable future. However, given the conservative methodology of the study, costs were not included that could not be documented or reasonably projected (e.g., full costs of new tests for grades four, six, and seven; costs associated with testing students with disabilities). Unanticipated needs at both the state and local level could quickly eradicate the modest surpluses found in the study. Additionally, as the 2014 NCLB requirement for 100 percent proficiency approaches, it is likely that Virginia's costs for compliance could rise at a faster rate as additional resources are needed to assist LEAs.

It is important to note that this study uses both objective data and professional judgment in the determination of true, new NCLB costs. The figures presented in this report present estimates only, not precise expenditures or revenues. Because NCLB implementation decisions continue to be made as the result of waiver requests and other national issues, the results presented here could and most likely will change over time. The SEA's ability to cover all estimated costs with available NCLB federal revenues is predicated upon its having the flexibility to use federal revenues to meet related needs across NCLB Title programs.

LEGISLATIVE MANDATE – 2005 GENERAL ASSEMBLY

**CHAPTER 11 and CHAPTER 13, 2005 ACTS OF ASSEMBLY**

*An Act to direct the Board of Education to take certain actions regarding the Commonwealth's participation in the federal No Child Left Behind Act.*

[House Bill 2602 and Senate Bill 1136]

Approved March 16, 2005

Be it enacted by the General Assembly of Virginia:

- 1.** *§ 1. That, pursuant to § 9401 of the federal No Child Left Behind Act (the Act), the Board of Education shall seek waivers from compliance with those provisions of the Act that are (i) in conflict with Title IX, Section 9527 (a), which prohibits federal authorities from mandating, directing, or controlling state or local allocation of resources and from mandating state or local expenditure of funds or incursion of any costs not paid for under the Act; or (ii) duplicative of the Commonwealth's existing educational accountability system as set forth in the Standards of Quality, Standards of Learning, and Standards of Accreditation; or (iii) lacking in effectiveness, including, but not necessarily limited to, those addressing (a) testing of students with disabilities or limited English proficiency; (b) additional or excessive testing; (c) exclusion of passing scores on expedited retakes of Standards of Learning assessments from calculations of adequate yearly progress; (d) measurement of adequate yearly progress based on, among other things, individual grade levels rather than longitudinal data and individual subgroup failures; (e) the overinclusion of certain students in several subgroups; and (f) components of the Commonwealth's educational accountability system and teacher licensure and employment requirements that, in the discretion of the Board, already substantially comply with the spirit and intent of the federal act.*
- 2.** That the Board of Education shall examine the fiscal and other implications for the Commonwealth and its local governments in the event that Virginia continues its compliance with, or withdraws from participation in, the federal No Child Left Behind Act. The Board shall convey its findings from such examination to the House Committees on Education and Appropriations and the Senate Committees on Education and Health and Finance no later than October 1, 2005.
- 3.** That an emergency exists and this act is in force from its passage.