

Coming July 2007: Selected Virginia General Assembly Actions Addressing Public Education

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Descriptive Context

Introduction

Although seemingly dominated by transportation and budget issues, the 2007 Session of the General Assembly nonetheless focused on numerous measures addressing public education in the Commonwealth. Legislators introduced over 3,000 pieces of legislation in 2007; less than one-third—948—received final approval. Of these, 12 were vetoed by the Governor.¹

2007 Session Statistics

Virginia General Assembly, Legislative Information System
<<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+STA>>

Type	Introduced	Passed House	Passed Senate	Passed both	Continued	Failed	Pending	Approved	Vetoed
H.B.	1599	736	624	623	193	1166	0	616	7
H.J.R.	460	356	337	336	36	159	0	0	0
H.R.	50	43	0	43	0	7	0	0	0
S.B.	695	338	446	335	110	470	0	330	5
S.J.R.	237	193	209	191	19	64	0	2	0
S.R.	28	0	25	25	0	3	0	0	0
Totals	3069	1666	1641	1553	358	1869	0	948	12

Measures referred to the House Committee on Education totaled 123 (100 House bills/resolutions, and 23 Senate initiatives).² The Senate Committee on Education and Health received 172 pieces of legislation; over 40 of these measures targeted K-12 education in the Commonwealth.³

¹Virginia General Assembly, Legislative Information System, Session Statistics (2007) <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+STA>>

²Virginia General Assembly, Legislative Information System, House Committee Statistics (2007) <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+HCS>>

³Virginia General Assembly, Legislative Information System, Senate Committee Statistics (2007) <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+SCS>>. The Legislative Information System (LIS) provides, among other things, a listing of all bills introduced by subject. Education measures—passed and failed—can be found at <http://leg1.state.va.us/cgi-bin/legp504.exe?071+sbj+022>. From this list, the viewer can search individual bill history and determine passage/failure/status. LIS also provides data regarding all introduced measures, passed and failed legislation, Governor's vetoes and recommendations, and other items at <http://leg1.state.va.us/cgi-bin/legp504.exe?071+men+BIL>.

House Committee on Education—2007 Session Statistics

Virginia General Assembly, Legislative Information System <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+HCS?>>

Referred H - S		In Com H - S		In Sub H - S		Reported H - S		Continued H - S		Failed H - S	
100	23	0	0	0	0	53	19	1	0	47	4

Senate Committee on Education and Health —2007 Session Statistics

Virginia General Assembly, Legislative Information System <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+oth+SCS?>>

Referred H - S		In Com H - S		In Sub H - S		Reported H - S		Continued H - S		Failed H - S	
108	64	0	0	0	0	94	50	0	0	14	14

While K-12 initiatives addressed a broad range of topics, this policy brief will highlight selected areas receiving particular or renewed review, deviating somewhat from the standard CEPI policy brief format. Unless otherwise indicated, bills signed by the Governor become effective “in due course”—on July 1, 2007. Joint resolutions, which do not require the Governor’s signature, become effective upon passage by both chambers.⁴

The Issue in Practice in the Commonwealth

No Child Left Behind Act

Subject to seemingly perennial Virginia legislative review is the federal No Child Left Behind Act (NCLB). Companion measures **HB 2542** (Landes) and **SB 1212** (Hanger), both passed by the 2007 General Assembly and signed by the Governor, direct the Board of Education to continue efforts to obtain waivers from compliance with NCLB provisions that “are fiscally and programmatically burdensome to school divisions and are not instructionally sound or in the best interest of children.” These two measures were adopted as uncodified acts and include a requirement that the Board report the status of Virginia’s waiver requests—and any responses from the U.S. Department of Education (USDOE)—to the chairmen of the House Education Committee and the Senate Education and Health Committee no later than October 1, 2007. The Board is to forward any waiver denials to the Virginia Congressional delegation “for its consideration in the reauthorization of the Elementary and Secondary Education Act.” Should the reauthorization fail to incorporate the various Virginia waiver requests, the Board is to issue a recommendation to the General Assembly regarding the “Virginia’s continued implementation of NCLB.” Finally, anticipating Virginia’s potential withdrawal from participation in NCLB, the bills authorize the Board and the Office of the Attorney General to file suit against USDOE to ensure that non-NCLB funds, as well as federal dollars addressing academic achievement for “children from low-income families” are not withheld.⁵

The **2007 Appropriation Act** reduced from \$8,155,889 to \$7,763,405 for various NCLB-required initiatives in 2007-08, such as teacher mentoring in struggling schools, virtual Advanced Placement courses, and GED tests. Funding for fiscal year 2007-8 remained at \$7,853,362.⁶

- **Previous legislative actions.** The passage of these measures in 2007 arguably reflects growing concern among Virginia legislators regarding the application of the Act to the Commonwealth’s already-ongoing educational accountability system. Five sessions

⁴Va. Constitution, Art. IV, § 13 <<http://legis.state.va.us/Laws/search/Constitution.htm#4S11>>

⁵2007 Acts of Assembly, cc. 123, 730; Virginia General Assembly, Legislative Information System, HB 2542 <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2542>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0123>>; SB 1212 <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1212>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0730>>

⁶2007 Acts of Assembly, c. 847, Item 135 (C)(23)(a), Virginia General Assembly, Legislative Information System, 2007 State Budget <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+bud+21-135>>

previous, the 2003 General Assembly had considered, but did not adopt, **SB 1054** (Hanger), which would have continued the work of the Commission on Educational Accountability to monitor, among other things, NCLB implementation in Virginia.⁷ Also that Session, the House Committee on Rules declined to pass **HJR 643** (Byron), which would have directed the Board to determine “potential cost savings and benefits” of NCLB requirements addressing disaggregated data and reporting and “the use of independent educational performance assessment services.”⁸ Faring better that Session was **HJR 642** (Byron), agreed to by both chambers; that resolution cited NCLB data reporting requirements and acknowledged “the efficacy and potential cost savings of contracting for independent educational performance assessment services.”⁹

The 2004 Session considered mandating Virginia’s withdrawal from NCLB by July 1, 2005, through **HB 337** (Pollard). However, the House Committee on Education agreed to “carry over” measure, and subsequently declined to move the bill forward for 2005 consideration.¹⁰ Meeting a similar fate in the House Committee on Rules was **HJR 87** (Pollard), directing the Joint Legislative Audit and Review Commission (JLARC) to study the “fiscal implications” of Virginia’s compliance—and potential noncompliance—with NCLB.¹¹ Dual measures urging Congress to amend NCLB “immediately”—**HJR 192** (Landes) and **SJR 77** (Hanger)—to create an “automatic waiver” mechanism for Virginia and other states “that have successfully increased student achievement through their own standards and accountability reforms” reached the floor of both chambers, but ultimately failed when committees of conference took no action on the resolutions.¹²

It was the **2004 Appropriation Act** adopted in Special Session I, however, that instructed the Department of Education to “continue to work with the school divisions to estimate the cost impacts of the federal No Child Left Behind Act.” The biennial budget also directed the Superintendent of Public Instruction provide updates addressing anticipated state and local costs to the Chairmen of the House Appropriations and Senate Finance Committees, beginning by July 31 of that year.¹³

In 2005, the General Assembly acted more directly, passing companion measures—**HB 2602** (Landes) and its counterpart, **SB 1136** (Hanger). These uncodified acts required the Board of Education was to seek waivers from NCLB provisions that conflict with the Act’s prohibition

⁷Virginia General Assembly, Legislative Information System (2003), SB 1054 (Hanger) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=031&typ=bil&val=sb1054>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+SB1054>>. The Commission had been created in 1999 (SJR 498) and continued in 2001 (SJR 385) and 2002 (SJR 57).

⁸Virginia General Assembly, Legislative Information System (2003), HJR 643 (Byron) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=031&typ=bil&val=hj643>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+HJ643>>

⁹Virginia General Assembly, Legislative Information System (2003), HJR 642 (Byron) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=031&typ=bil&val=hj642>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+HJ642ER>>

¹⁰Virginia General Assembly, Legislative Information System (2004), HB 337 (Pollard) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=hb337>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+HB337>>

¹¹Virginia General Assembly, Legislative Information System (2004), HJR 87 (Pollard) <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+HJ87>>

¹²Virginia General Assembly, Legislative Information System (2004), HJR 192 (Landes) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=hj192>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+HJ192E>>; SJR 77 (Hanger) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=sj77>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+SJ77E>>

¹³2004 Acts of Assembly, c. 4, Item 144 (E)(5)(b)(Special Session I) <<http://leg1.state.va.us/cgi-bin/legp504.exe?042+bud+21-144>> Consistent with this directive, the Department issued its first report, House Document No. 21, on July 31, 2004. Subsequent reports were issued on December 29, 2004 (House Document No. 12), May 23, 2005 (House Document No. 50), and September 29, 2005 (House Document No. 61). See Virginia Legislative Information System, Studies and Commissions, Reports to the General Assembly <<http://leg2.state.va.us/DLS/H&SDocs.NSF/4d54200d7e28716385256ec1004f3130/72b3638a55825b5585256ee8006fc104?OpenDocument>>; <<http://leg2.state.va.us/DLS/h&sdocs.nsf/5c7ff392dd0ce64d85256ec400674ecb/b03566292630dd5785256f7e0047532c?OpenDocument>>; <<http://leg2.state.va.us/DLS/h&sdocs.nsf/5c7ff392dd0ce64d85256ec400674ecb/18508b8826db9948525701a00426147?OpenDocument>>; <<http://leg2.state.va.us/DLS/h&sdocs.nsf/5c7ff392dd0ce64d85256ec400674ecb/453bc82e8626a69785256fcd0050ac2d?OpenDocument>>

against “federal authorities...mandating, directing, or controlling state or local allocation of resources and...mandating state or local expenditure of funds or incursion of any costs not paid for under the Act...” In addition, waivers were to address NCLB provisions duplicating Virginia’s then-current accountability system, or “lacking in effectiveness.” Specifically cited were, among other things, “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.” Mirroring concepts addressed by failed measures from prior sessions, the Board was to report to the education and budget committees regarding the implications of Virginia’s potential withdrawal from—and continued participation in—the federal Act.¹⁴

Educational Leadership

Citing a need for “need for sustained focus on...educational leadership initiatives in the Commonwealth and continued and ongoing dialogue regarding strengthening and supporting educational leadership in our public schools generally,” the 2007 Session passed **HJR 622** (Hamilton), requesting the Board of Education to create the Commonwealth Educational Roundtable. Prompted by Virginia’s six-year participation in The Wallace Foundation’s State Action for Educational Leadership Project (SAELP) grant, the resolution specifies that the Roundtable will, among other things, “monitor the implementation of current proposed revisions to licensure of principals and preparation program regulations”—another initiative supported by the SAELP initiative. The Roundtable will not only address the “policy environment for educational leadership” but also serve as “a forum for educational leaders.” Comprised of state public and higher education agency leaders as well as representatives of educational leadership organizations, and others “as the Board and the Superintendent may deem appropriate,” the Roundtable is to remain in communication with the Board and make recommendations regarding any need regulatory change.¹⁵

Contrasting the Roundtable’s focus on revisions in principal licensure and preparation requirements was **HB 2151** (Poisson), which would have required “identical” licensure requirements for superintendents, principals, and teachers. More specifically, the measure would have directed the Board of Education to require a collegiate professional license (currently required for teachers) for superintendents and principals, eliminating the current assessment requirement for principal licensure (School Leaders Licensure Assessment) and the administrator and division superintendent licenses detailed in Board regulations. The House Committee on Education declined to act upon the measure.¹⁶

The **2007 Appropriation Act** included funding for turnaround specialists “to enhance the leadership in schools that have consistently failed to show improvement in student progress” as well as \$500,000 in 2007-08 for competitive grants of \$100,000 each to school divisions entering into

¹⁴2005 Acts of Assembly, cc. 11, 13; Virginia General Assembly, Legislative Information System (2005), HB 2602 (Landes) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb2602>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+CHAP0013>>; SJR 1136 (Hanger) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=sb1136>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+CHAP0011>>. The House bill incorporated HB 1592 (Reese), while the Senate version incorporated SB 948 (Potts).

¹⁵Virginia General Assembly, Legislative Information System (2007), HJR 622 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj622>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ622ER>>.

¹⁶Virginia General Assembly, Legislative Information System (2007), HB 2151 (Poisson) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2151>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB2151>>. See also, Virginia Board of Education, Licensure Regulations for School Personnel, 8VAC20-21-50 <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+8VAC20-21-50>>; 8VAC20-21-580 <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+8VAC20-21-580>>; 8VAC20-21-590 <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+8VAC20-21-590>> (updated through February 19, 2007); Va. Code §§ 22.1-59; 22.1-298.1 E (2007) <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-59>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-298.1>>. A measure proposed in 2006, HB 274 (Poisson), would have eliminated licensure requirements for principals and superintendents entirely. See Virginia General Assembly, Legislative Information System (2006), HB 274 (Poisson) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=061&typ=bil&val=hb274>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+HB274>>

partnerships targeting “a defined leadership development training program that addresses the leadership standards established for such training as defined by the Board of Education.”¹⁷

- **Previous legislative action.** As recommended by the 2004 Report of the HJR 20/SJR 58 (2002) Commission to Review, Study and Reform Educational Leadership, the 2004 Session of the General Assembly had passed **HB 573** (Hamilton), requiring passage of the School Leader’s Licensure Assessment (SLLA) as a condition of licensure for principals as of July 1, 2005.¹⁸ In 2006, the legislature amended the requirement to require passage of an assessment—less specifically—“as prescribed by the Board.”¹⁹ The Commission, supported by Virginia’s SAELP grant, had also recommended to the 2004 Session that Board of Education review its regulations to “incorporate an alternative licensure route for principals and assistant principals.” The measure—**HJR 123** (Hamilton)—passed unanimously, and informed the Board’s revision of its licensure and preparation program regulations, expected to be finalized in summer 2007.²⁰ The previous Session adopted **HJR 608** (Hamilton), requesting the Board and the State Council of Higher Education to coordinate to ensure that the Board’s leadership and performance standards for administrators and superintendents be “reflected in preparation and training programs for principals and superintendents in institutions of higher education.”²¹ That same year, however, the House Committee on Privileges and Elections unanimously tabled **HJ 570** (Hamilton), another Commission recommendation, which had proposed a constitutional amendment to authorize the General Assembly to provide for the delegation of school board employment authority by statute.²²

Standards of Quality

Amendments to the Standards of Quality adopted in 2007, although not sweeping, addressed several critical areas. **SB 795** (Potts) effected a number of changes, including replacing the current eighth grade history assessment in academic year 2008-09 with the various U.S. History to 1877/1877 to the Present and Civics and Economics tests. School boards are to provide not only for the early identification and assistance for students with reading challenges, but also mathematics difficulties. Local school boards must provide annually, pursuant to Standard 5, professional development in effective classroom management for teachers and principals.²³ A similar, but not identical, measure, **HB 2093** (Tata), proffered revisions to various instructional personnel staffing requirements; that bill, however, remained in the House Committee on Appropriations.²⁴

¹⁷2007 Acts of Assembly, c. 847, Item 135 C23(a);(b); Virginia General Assembly, Legislative Information System, 2007 State Budget <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+bud+21-135>>; see also, Commonwealth Educational Policy Institute, SAELP Grant <<http://www.cepi.vcu.edu/saelp.html>>

¹⁸2004 Acts of Assembly, c. 46, Virginia General Assembly, Legislative Information System (2004); HB 573 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=hb573>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+CHAP0046>>

¹⁹2006 Acts of Assembly, cc. 27, 349; Virginia General Assembly, Legislative Information System (2006) <<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0349>>; HB 1057 (Reid) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=061&typ=bil&val=hb1057>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0349>>; SB 74 (Houck) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=061&typ=bil&val=sb74>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0027>>

²⁰Virginia General Assembly, Legislative Information System (2004), HJR 123 (Hamilton) <<<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=hj123>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+HJ123ER>>

²¹Virginia General Assembly, Legislative Information System (2003), HJR 608 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=031&typ=bil&val=hj608>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+HJ608ER>>

²²Virginia General Assembly, Legislative Information System (2003), HJ 570 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=031&typ=bil&val=hj570>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+HJ570>>; see also, Final Report of the Commission to Review, Study and Reform Educational Leadership, House Document No. 16 (2004).

²³2007 Acts of Assembly, c. 234; Virginia General Assembly, Legislative Information System (2007), SB 795 (Potts) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb795>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0234>> [hereinafter referred to as SB 795].

²⁴Virginia General Assembly, Legislative Information System (2007), HB 2093 (Tata) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2093>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB2093>>

Remediation. Mandatory remediation for failure of Standards of Learning or end-of-course tests was again clarified, now requiring students in grades three through eight who fail “to achieve a passing score **on all** [emphasis added] of the Standards of Learning assessments” to attend some form of remediation. Current language had specified that any third-eighth grader who “fails all four” Standards of Learning assessments must participate in remediation. Although the new language—out of context—might seemingly require remediation for third-eighth graders failing one or more of the SOL assessments, the statute’s preceding sentence indicates that third-eighth graders who “achieve a passing score on one or more, but not all” of the SOL tests, may be required to attend remediation.²⁵

- **Previous legislative action.** The specific language mandating remediation for failure of SOL assessments has been revisited by several Sessions. While seemingly a semantic exercise, specificity in the language was critical to ensure consistency in interpretation. In 1997, the legislature amended the SOQ to require remediation for any student who “does not pass the literacy tests....”²⁶ The 1998 Session added mandatory remediation for students in grades three-eight “who do not pass **all** Standards of Learning assessments” [emphasis added].²⁷ Arguably, this language might be subject to dual interpretation—requiring remediation for the third-eighth grader failing a single SOL assessment or failing every SOL assessment. In 2000, the legislature stated that, effective July 1, 2003, any third-eighth grader “who does not pass the literacy tests or **any** [emphasis added] of the Standards of Learning **assessments**...shall be required to attend a summer school program or to participate in another form of remediation;” in addition, those who pass “one or more, but not all, of the Standards of Learning assessments...may be required to attend a remediation program.”²⁸ In 2004, the General Assembly required remediation for any third-eighth grader who “fails all” of the SOL assessments; the amendment retained the permissive language regarding third-eighth graders passing “one or more, but not all” of the SOLs. In 2005, the language was again amended to indicate students failing “all **four**” [emphasis added] assessments must participate in remediation.²⁹

High School Diplomas. Further amendments to the Standards of Quality targeted diploma requirements. Pursuant to **HB 2039** (Hamilton)(which incorporated **HB 1442** (Nutter)) and its counterpart, **SB 1147** (Wagner) direct the Board of Education to create requirements for two new high school diplomas. The technical diploma and the advanced technical diploma must “meet or exceed” the requirements for the current standard and advanced studies diplomas, respectively; however, both will include a “concentration” in career and technical education. The Board is also authorized to create or select assessments in career and technical education to award verified units of credit.³⁰ The previously-cited **SB 795** also adds a statutory reference in Standard 4 to the “special diploma,” currently detailed in Board regulations and awarded by local school boards—rather than the Board of Education—to students completing their respective individualized education plans.³¹

- **Previous legislative action.** Perhaps significantly, the General Assembly had not previously singled out any other curriculum concentrations for a specific diploma. While authorizing the Board to “recognize exemplary academic performance” through the award of diploma “seals”

²⁵2007 Acts of Assembly, c. 234; Virginia General Assembly, Legislative Information System (2007), SB 795 (Potts), *supra* note 25.

²⁶1997 Acts of Assembly, c. 828.

²⁷1998 Acts of Assembly, c. 902.

²⁸2000 Acts of Assembly, c. 684.

²⁹2004 Acts of Assembly, cc. 939, 955; 2005 Acts of Assembly, cc. 331, 450.

³⁰2007 Acts of Assembly, cc. 859, 919; Virginia General Assembly, Legislative Information System (2007), HB 2039 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2039>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0859>>; HB 1442 (Nutter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1442>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB1442EH1>>; SB 1147 (Wagner) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1147>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0919>>

³¹Virginia General Assembly, Legislative Information System (2007), SB 795, *supra* note 23; Va. Code § 22.1-253.13:4B (2006); 8VAC20-131-50E <<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+8VAC20-131-50>> [last updated February 19, 2007].

in career and technical education, advanced mathematics and technology, and civics education, the Standards of Quality identified only the standard and advanced studies diplomas in 1998, citing the general achievement diploma in 2003 and the modified standard diploma in 2004.³² The concept of a “standard diploma in vocational/technical studies” was considered nearly 10 years before—in 1998 (**HB 186**—Hamilton).³³ While declining to add this specific diploma, the 1998 Session did adopt legislation (**HB 63**—Orrock) directing the Board develop criteria for the award of diploma seals for excellence in vocational studies.³⁴

Early Childhood Education

As one of his first actions following his January 2006 inauguration, Governor Kaine issued **Executive Order 7**, establishing the 17-member Start Strong Council to “[d]evelop statewide goals and best practices for expanding opportunities for 4 year olds to access quality pre-kindergarten programs, and encourage communities to identify local strengths and challenges in reaching the statewide goals.” The Council is charged to make recommendations regarding funding and increased access to preschool.³⁵ Pursuant to **Executive Order 40** (October 13, 2006), the P-16 Council was continued and specifically directed to, among other things, “[w]ork closely with the Start Strong Council and other appropriate entities and organizations to ensure that pre-K and early childhood initiatives are coordinated with other education initiatives.” The Council is to report recommendations by August 15, 2007.³⁶

Potentially complementing the efforts of the P-16 and Start Strong Councils is a study to be conducted by the Joint Legislative Audit and Review Commission (JLARC), prompted by the adoption of **HJR 729** (Cox). The study is to examine the Virginia Preschool Initiative, including its authorization, funding; implementation, and effectiveness in preparing at-risk four-year-olds for school readiness and success. In addition, JLARC is to study the concept of the Universal Preschool.³⁷ The Senate Committee on Education and Health considered, but declined to act upon, **SB 205** (Edwards), which would have required school boards to provide, beginning in 2010, “early childhood education programs for four-year-olds and five-year-olds who are not eligible to attend kindergarten and whose parents voluntarily wish to enroll them in such programs.”³⁸

The **2006-08 Appropriation Act** includes \$20,000 in each year of the biennium for technical assistance to school divisions for the development of “a comprehensive, coordinated, quality preschool program for serving at-risk four-year-old children.”³⁹ Amendments adopted in 2007 renamed the at-risk four-year old incentive program the “Virginia Preschool Initiative,” and allocated \$46,213,471 and \$53,090,536 in the first and second years of the biennium. The existing preschool program supports grants to school divisions—as well as “community-based organizations”—for programs that include “quality preschool education, health services, social services, parental involvement and transportation” for at-risk four-year-olds who are not served by Head Start. A local match, based on the composite index of

³²Va. Code § 22.1-253.13:4 (2006); 1998 Acts of Assembly, cc. 78, 902; 2003 Acts of Assembly, c. 688; 2004 Acts of Assembly, cc. 939, 955; see generally, Division of Legislative Services, K.G. Harris, *A Legislator’s Guide to Public Education in Virginia, The Standards of Quality* (1999 revision) at 36 <<http://dls.state.va.us/pubs/lgpe/lgpe3b.pdf>>

³³Virginia General Assembly, Legislative Information System (1998), HB 186 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=981&typ=bil&val=hb186>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+HB186>>

³⁴1998 Acts of Assembly, c. 72; Virginia General Assembly, Legislative Information System (1998), HB 63 (Orrock) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=981&typ=bil&val=hb63>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+CHAP0072>>

³⁵Commonwealth of Virginia, Office of the Governor, Executive Order 7 (January 16, 2006) <http://www.governor.virginia.gov/Initiatives/ExecutiveOrders/2006/EO_7.cfm>

³⁶Commonwealth of Virginia, Office of the Governor, Executive Order 40 (October 13, 2006) <http://www.governor.virginia.gov/Initiatives/ExecutiveOrders/2006/EO_40.cfm>

³⁷Virginia General Assembly, Legislative Information System (2007), HJR 729 (Cox) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj729>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ729ER>>

³⁸Virginia General Assembly, Legislative Information System, SB 205 (Edwards) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb205>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+SB205>>

³⁹2007 Acts of Assembly, c. 847, Item 127 B, Virginia General Assembly, Legislative Information System, State Budget <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+bud+21-127+pdf>>

local ability to pay, is required for these grants; the programs must provide either full- or half-day services for the duration of the school year. New language allocates \$2,557,266 in 2007-08 to the Department of Education for agreements for early childhood development pilot programs for school divisions with ongoing partnerships with private and/or non-profit providers.⁴⁰

- **Previous legislative actions.** The 1991 Session had created the Commission on Early Childhood and Child Day Care Programs pursuant to **HB 1778** (Marshall) to continue the work of a legislative study committee established in 1987.⁴¹ The 1995 Session expressed its support for “maintaining and increasing the General Assembly’s 1994 appropriation for programs for at-risk four year olds” with the adoption of **HJR 494** (Connally) and **SJR 280** (Walker), a Commission recommendation.⁴² A gubernatorial vetoed precluded an extension of the Commission’s work from 1996 to 1998 (**SB 759**—Walker);⁴³ however, action by the 1996 Session removed the Commission’s “sunset” requirement.⁴⁴ In 1999, the General Assembly abolished the Commission and other “relatively inactive” entities.⁴⁵

The **Omnibus Education Act of 1995** had, however, codified various initiatives—including Virginia’s at-risk four-year-old efforts—that previously had resided in the Appropriation Act. The legislation established in statute the grants initiative supporting “quality preschool programs for at-risk four-year-olds who are unserved by another such program.” The statute cited—and continues to cite—preschool guidelines and criteria developed by a 1993 collaborative study the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.⁴⁶

Student Health and Safety

A 13-member joint legislative study committee, created by **HJR 637** (O’Bannon) will examine childhood obesity among Virginia public school students. Topics of focus are to include the respective roles of physical education curriculum and cultural influences, parental involvement in improved nutrition efforts, and other state initiatives addressing student obesity.⁴⁷ Statutory changes enacted pursuant to **HB 2214** (Armstrong) and **SB 974** (Edwards) direct collaboration between the Superintendent of Public Instruction and the State Health Commissioner to “combat childhood obesity and other chronic health conditions affecting school-age children.”⁴⁸

⁴⁰2007 Acts of Assembly, c. 847, Item 135 (C)(15), Virginia General Assembly, Legislative Information System, State Budget <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+bud+21-135+pdf>>

⁴¹Virginia General Assembly, Legislative Information System, Studies and Commissions, Reports to the General Assembly, Senate Document No. 38 (1993) <<http://leg2.state.va.us/DLS/h&sdocs.nsf/5c7ff392dd0ce64d85256ec400674ecb/45330a314cb9f8ef85256015006f0d62?OpenDocument>>

⁴²Virginia General Assembly, Legislative Information System (1995), HJR 494 (Connally) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=951&typ=bil&val=hj494>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?951+ful+HJ494ER>>; SJR 280 (Walker) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=951&typ=bil&val=sj280>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?951+ful+SJ280ER>>

⁴³Virginia General Assembly, Legislative Information System (1995), SB 759 (Walker) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=951&typ=bil&val=sb759>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?951+ful+SB759ER>>

⁴⁴1996 Acts of Assembly, cc. 177, 482 <<http://leg1.state.va.us/cgi-bin/legp504.exe?961+ful+CHAP0177>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?961+ful+CHAP0482>>

⁴⁵2001 Acts of Assembly, c. 577 ; Virginia General Assembly, Legislative Information System (2001), SB 1365 (Trumbo)<<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=011&typ=bil&val=sb1365>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?011+ful+CHAP0577>>

⁴⁶1995 Acts of Assembly, c. 852; Virginia General Assembly, Legislative Information System (1995), HB 2542 (Van Landingham) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=951&typ=bil&val=hb2542>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?951+ful+CHAP0852>>; Va. Code § 22.1-199.1 (2006).

⁴⁷Virginia General Assembly, Legislative Information System (2007), HJR 637 (O’Bannon) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj637>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ637ER>>

⁴⁸2007 Acts of Assembly, cc. 43, 55; Virginia General Assembly, Legislative Information System (2007), HB 2214 (Armstrong)<<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2214>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0043>>; SB 974 (Edwards) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb974>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0055>>

Amendments to the Standards of Quality (**SB 795**—Potts) direct school boards to post on their websites the student conduct policy.⁴⁹ Pursuant to **HB 2271** (Ebbin), local school boards will now annually review their school crisis and emergency plans.⁵⁰ Board of Education curriculum guidelines for family life education will address dating violence and abusive relationships, as required by **HB 1916** (Ward).⁵¹ Identical bills, **HB 1707** (Lingamfelter) and **SB 1346** (Newman), make the award of a school board contracts for services that involve direct contact with students—specifically, on school property during regular school hours or during school-sponsored activities—contingent upon the contractor’s certification that those providing the services have not been convicted of a felony. The measures include an exception for certain emergency situations.⁵²

Miscellaneous

“**Share the Ride.**” Passage of **HB 2302** (Cole) clarified the authority of local school boards to contract with nonpublic schools within the division to provide transportation services. The measure provides that any agreements with nonpublic schools be established “under such terms and conditions as the local school boards deem appropriate and responsible” and cites potential provisions addressing “cost-sharing, fees, insurance, and liability.”⁵³

- **Previous legislative actions.** The 2007 version of “Share the Ride” can find roots in **SB 444** (1990—Earley), which spawned an inquiry of then-State Attorney General Mary Sue Terry regarding its constitutionality. The 1990 measure would have required school divisions provide nonpublic school students transportation to and from school “at cost.” At issue were concerns regarding separation of church and state, and the use of state moneys to support religious education. The Attorney General concluded that free transportation of students to sectarian schools would violate the Virginia Constitution. However, the opinion concluded that the constitutionality of the measure would be strengthened by a General Assembly finding of a “factual basis justifying the use by sectarian school pupils of public school transportation on public safety grounds,” together with availability to students in sectarian and nonsectarian schools, and full parental payment of costs.⁵⁴ Referred to as “Share the Ride” legislation, the concept received legislative consideration in 1991 (**HB 1457**), 1992 (**HB 976**; **SB 401**), and again in 1993 (**HB 2219**).⁵⁵

In 1995, **SB 1097** tracked the Attorney General’s “factual basis” language and made the measure permissive rather than mandatory; the Senate Committee on Education and Health declined to act upon the measure.⁵⁶ Later that year, then-Attorney General James Gilmore indicated that specific statutory authority would be required to permit school boards to enter into contracts for private school transportation.⁵⁷ The measure reappeared in 1996 as **SB**

⁴⁹Virginia General Assembly, Legislative Information System (2007), HB 1916 (Ward) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1916>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0032>>

⁵⁰2007 Acts of Assembly, c. 44; Virginia General Assembly, Legislative Information System (2007), HB 2271 (Ebbin) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2271>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0044>>

⁵¹SB 795, *supra* note 23.

⁵²2007 Acts of Assembly, cc. 245; 431; Virginia General Assembly, Legislative Information System (2007), SB 1346 (Newman) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1346>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0245>>; HB 1707 (Lingamfelter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1707>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0431>>

⁵³2007 Acts of Assembly, c. 476; Virginia General Assembly, Legislative Information System (2007), HB 2302 (Cole) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2302>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0476>>

⁵⁴1991 Op. Att. Gen Va. 49 <http://web.lexis-nexis.com/universe/document?_m=69fe4fc12501a37090d0baf8f6b90aa5&_docnum=1&wchp=dGLbVtb-zSkVA&_md5=da076a483586e4712a62fdc52d7fa481>

⁵⁵Virginia Division of Legislative Services, K.G. Harris, *A Legislator’s Guide to Public Education in Virginia, Pupils, Courses, and Programs* (1993) <<http://dls.state.va.us/PUBS/lgpe/lgpe5.pdf>>

⁵⁶Virginia General Assembly, Legislative Information System (1995), SB 1097 (Earley) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=951&typ=bil&val=sb1097>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?951+ful+SB1097>>

⁵⁷1995 Op. Att. Gen Va. 149 <http://web.lexis-nexis.com/universe/document?_m=527f43a6af5bd91012fe324412122965&_docnum=1&wchp=dGLbVtb-zSkVA&_md5=981851dbddd7218b23786a49ce0448e7>

501 (Earley) and was unanimously carried over by committee; no subsequent action was taken.⁵⁸ In 1998, a House version of the measure (**HB 1400**—Wagner) was defeated (passed by indefinitely) in committee, 13-10, and a Senate version (**SB 682**--Schrock) met a similar fate.⁵⁹ In 2005, **HB 1589** (Reese), another permissive “Share the Ride” bill that incorporated another similar measure, **HB 1658** (Lingamfelter) was passed by the House of Delegates (73-25), but failed in Senate Education and Health (9-6).⁶⁰ In 2006, the chairman of the House Committee on Education introduced **HB 1408** (Tata). Again, the measure solidly passed the House of Delegates (79-20), but did not survive Senate committee scrutiny.⁶¹

Resources

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⁵⁸Virginia General Assembly, Legislative Information System (1996), SB 501 (Earley) <<<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=961&typ=bil&val=sb501>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?961+ful+SB501>>; Virginia General Assembly, Legislative Information System (1997), SB 501 (Earley) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=971&typ=bil&val=sb501>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?971+ful+SB501>>

⁵⁹Virginia General Assembly, Legislative Information System (1998), HB 1400 (Wagner) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=981&typ=bil&val=hb1400>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+HB1400>>; SB 682 (Schrock) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=981&typ=bil&val=sb682>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+SB682>>

⁶⁰Virginia General Assembly, Legislative Information System (2005), HB 1589 (Reese) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb1589>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+HB1589H1>>; HB 1658 (Lingamfelter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb1658>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+HB1658>>

⁶¹Virginia General Assembly, Legislative Information System (2006), HB 1408 (Tata) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=061&typ=bil&val=hb1408>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+HB1408>>

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HJR 192 (Landes) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=hj192>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+HJ192E>>
SJR 77 (Hanger) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=041&typ=bil&val=sj77>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?041+ful+SJ77E>>

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HB 1658 (Lingamfelter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=051&typ=bil&val=hb1658>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+HB1658>>
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HB 1442 (Nutter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1442>>; < <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB1442EH1>>
HB 1707 (Lingamfelter) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1707>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0431>>
HB 1916 (Ward) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb1916>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0032>>
HB 2039 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2039>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0859>>
HB 2093 (Tata) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2093>>; < <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB2093>>
HB 2151 (Poisson) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2151>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HB2151>>
HB 2214 (Armstrong) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2214>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0043>>
HB 2271 (Ebbin) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2271>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0044>>
HB 2302 (Cole) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2302>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0476>>
HB 2542 <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hb2542>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0123>>
HJR 622 (Hamilton) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj622>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ622ER>>
HJR 637 (O'Bannon) < <http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj637>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ637ER>>
HJR 729 (Cox) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=hj729>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+HJ729ER>>
SB 205 (Edwards) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb205>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+SB205>>
SB 795 (Potts) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb795>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0234>>
SB 974 (Edwards) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb974>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0055>>
SB 1147 (Wagner) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1147>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0919>>
SB 1212 <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1212>>; < <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0730>>
SB 1346 (Newman) <<http://leg1.state.va.us/cgi-bin/legp504.exe?ses=071&typ=bil&val=sb1346>>; <<http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0245>>

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