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## HOUSE BILL NO. 1428

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on February 8, 2006)

(Patron Prior to Substitute—Delegate Landes)

*A BILL to provide conditions for the continued implementation of No Child Left Behind.*

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. No Child Left Behind; waiver and exemption requests.**

*A. In calendar year 2006, the President of the Board of Education shall request from the U.S. Department of Education the following waivers and exemptions of the statutory and regulatory requirements of the federal No Child Left Behind Act (Public Law 107-110):*

*1. Additional flexibility for the Commonwealth to apply sanctions regarding supplemental services and public school choice in a manner that provides the greatest benefit to students and recognizes factors such as economics and geographics.*

*2. The identification of schools in improvement that examines performance aligned with the same subject and subgroup.*

*3. The modification of adequate yearly progress calculation policies to accommodate appropriate measures of progress for students with disabilities and those students who are limited English proficient.*

*4. The ability to count the passing scores of students on retests in the calculation of adequate yearly progress in a manner that increases the validity of adequate yearly progress determinations across tested grade levels.*

*5. The approval of a plan that exempts all schools that do not receive Title I, Part A funding from the adequate yearly progress accountability provisions specified in Title I, Part A of the federal Act.*

*Nothing in this section shall be construed to prohibit the Board of Education from making additional requests as it deems necessary.*

*The U.S. Department of Education shall consider all requests in this section within the context of the current federal No Child Left Behind Act and the upcoming Congressional actions regarding reauthorization of the federal Elementary and Secondary Education Act. In its consideration of the Commonwealth's 2006 requests, the U.S. Department of Education shall also recognize the significant efforts undertaken by the Commonwealth to fund compliance actions related to the Act with state and local resources as well as the provisions of section 9527 of the federal Act, which states the following:*

*"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act."*

*B. The President of the Board of Education shall make a report on the status of all requests provided in section A of this act to the Governor, the Chairmen of the Senate Education and Health and House Education Committees, and the Chairmen of the Senate Finance and House Appropriations Committees no later than the first day of the 2007 General Assembly. If such report indicates that the response from the U.S. Department of Education to the requests in section A of this act is unsatisfactory, then the President of the Board of Education shall make recommendations to the Governor and the General Assembly regarding additional actions. Such actions may include, but need not be limited to (i) the nullification and revocation of the Virginia Consolidated State Application submitted to the U.S. Department of Education; (ii) legal actions that may be taken by the Office of the Attorney General; and (iii) additional negotiations with the U.S. Department of Education.*