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HOUSE BILL NO. 1757

Offered January 8, 2003

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A BILL to amend and reenact §§ 22.1-199.2, 22.1-253.13:1, and 22.1-254.01 of the Code of Virginia, relating to remediation of certain students.

Patron—Amundson

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-199.2, 22.1-253.13:1, and 22.1-254.01 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-199.2. Standards for remediation programs established; reporting required.

A. The Board of Education shall promulgate regulations for establishing standards for remediation programs that receive state funding, without regard to state funding designations, which shall be designed to strengthen and improve the effectiveness of such programs in increasing the scholastic achievement of students with academic deficiencies. Such standards shall require (i) school divisions to evaluate remediation programs, annually, in terms of the pass rate on the Standards of Learning tests and (ii) that school divisions report, on such forms as may be required by the Board for such purpose, data pertaining to the demographic and educational characteristics of students who have been identified for remediation pursuant to subsection C of § 22.1-253.13:1, or clause (ii) of subsection A of § 22.1-254, and § 22.1-254.01. Data submitted to the Board shall include, but not be limited to, the number of students failing any Standards of Learning assessments for grades ~~three~~3, ~~five~~5, and ~~eight~~8 and any end-of-course tests required for the award of a verified unit of credit; a demographic profile of the students attending such programs; the academic status of each such student; the types of instruction offered, the length of the program, and the local costs of the program; the number of ungraded and disabled students, and those with limited English proficiency (ESL); and the number of students failing the Standards of Learning assessments for grades ~~three~~3, ~~five~~5, and ~~eight~~ 8 or end-of-course tests required for the award of a verified unit of credit who attend remediation programs. School divisions shall also report to the Board the number of students who successfully complete the objectives of remedial programs which they attended due to their performance on the Standards of Learning assessments.

The Board shall also establish in regulations, a formula for determining the level of funding necessary to assist school divisions in providing transportation services to students required to attend remediation programs.

B. The Board of Education shall cause the collection, compilation, and analysis of the data required to be reported by local school divisions in subsection A of this section to accomplish a statewide review and evaluation of remediation programs. The Board shall report its analysis of the data submitted by school divisions and a statewide assessment of remediation programs, and any recommendations, to the Governor and the General Assembly annually.

§ 22.1-253.13:1. Standard 1. Basic skills, selected programs, and instructional personnel.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school and preparation for life, and find that the quality of education is dependent upon the provision of the appropriate working environment, benefits, and salaries necessary to ensure the availability of high quality instructional personnel and adequate commitment of other resources.

B. The Board of Education shall establish educational objectives to implement the development of the skills that are necessary for success in school and for preparation for life in the years beyond. The current educational objectives, known as the Standards of Learning, shall not be construed to be regulations as defined in § 2.2-4001; however, the Board of Education may, from time to time, revise these educational objectives to maintain academic rigor.

In order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing new educational objectives. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise these educational objectives in the Virginia Register of Regulations. Interested parties shall be given reasonable

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59 opportunity to be heard and present information prior to final adoption of any revisions of these
60 educational objectives.

61 The Board shall seek to ensure that any revised educational objectives are consistent with the world's
62 highest educational standards. These objectives shall include, but not be limited to, basic skills of
63 communication, computation and critical reasoning including problem solving, decision making, and
64 proficiency in the use of computers and related technology and the skills to manage personal finances
65 and to make sound financial decisions, and the development of personal qualities such as self-esteem,
66 sociability, self-management, integrity, and honesty.

67 With such funds as are made available for this purpose, the Board shall regularly review and revise
68 the competencies for career and technical education programs to require the full integration of English,
69 mathematics, science and social studies Standards of Learning. Career and technical education programs
70 shall be aligned with industry and professional standard certifications, where they exist.

71 The Standards of Learning in all subject areas shall be subject to regular review and revision to
72 maintain rigor and to reflect a balance between content knowledge and the application of knowledge in
73 preparation for eventual employment and lifelong learning. By October 1, 2000, the Board of Education
74 shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may
75 be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall
76 occur at least once every ~~seven~~ 7 years. Nothing in this section shall be construed to prohibit the Board
77 from conducting such review and revision on a more frequent basis.

78 School boards shall implement these objectives or objectives specifically designed for their school
79 divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve
80 the educational objectives utilized by the school division at appropriate age or grade levels.

81 With such funds as are available for this purpose, the Board of Education shall prescribe assessment
82 methods to determine the level of achievement of these objectives by all students. Such assessments
83 shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards
84 of Learning being assessed. The Board shall (i) in consultation with the chairpersons of the eight
85 regional superintendents' study groups, establish a timetable for administering the Standards of Learning
86 assessments to ensure genuine end-of-course and end-of-grade testing and (ii) with the assistance of
87 independent testing experts, conduct a regular analysis and validation process for these assessments. In
88 prescribing such assessments, the Board shall provide local school boards the option of administering
89 tests for United States History to 1877, United States History: 1877 to the Present, and Civics and
90 Economics. The Board of Education shall make publicly available such assessments in a timely manner
91 and as soon as practicable following the administration of such tests, so long as the release of such
92 assessments does not compromise test security or deplete the bank of assessment questions necessary to
93 construct subsequent tests.

94 By July 1, 1999, the Board shall develop and approve objectives for mathematics, at the middle and
95 high school levels, for personal living and finances, which shall focus on money management skills for
96 individuals and families. The personal living and finances objectives shall require instruction in those
97 skills necessary to handle personal business and finances and shall include, but need not be limited to,
98 the following: opening a bank account and how to judge the quality of a bank's services; balancing a
99 checkbook; completing a loan application; the implications of an inheritance; the basics of personal
100 insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt
101 management, including retail and credit card debt; state and federal tax computation; local tax
102 assessments; computation of interest rates by various mechanisms; understanding simple contracts; and
103 how to contest an incorrect bill. These personal living and finances objectives shall not be required to be
104 included in the Board's Standards of Learning, and shall be developed in a manner to ensure that
105 instruction in the Standards of Learning shall not be de-emphasized. The Board shall not be required to
106 evaluate student achievement concerning such objectives in the Standards of Learning Assessment Tests
107 required by § 22.1-253.13:3.

108 The Board of Education shall supplement the Standards of Learning for social studies to ensure the
109 study of contributions to society of diverse people. For the purposes of this subsection, "diverse" shall
110 include consideration of disability, ethnicity, race, and gender.

111 C. Local school boards shall develop and implement a program of instruction for grades K through
112 12 that emphasizes reading, writing, speaking, mathematical concepts and computations, proficiency in
113 the use of computers and related technology, and scientific concepts and processes; essential skills and
114 concepts of citizenship, including knowledge of Virginia history and world and United States history,
115 economics, government, foreign languages, international cultures, health and physical education,
116 environmental issues and geography necessary for responsible participation in American society and in
117 the international community; fine arts, which may include, but need not be limited to, music and art,
118 and practical arts; knowledge and skills needed to qualify for further education and employment or, in
119 the case of some handicapped children, to qualify for appropriate training; and development of the
120 ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning.

School boards shall strive to employ licensed instructional personnel qualified in the relevant subject areas, including qualified teachers, licensed through the Board of Education's provisional licensure procedures, who have professional expertise in the relevant subject areas.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests, ~~or~~ who fail to achieve a passing score on any Standards of Learning assessment in grades ~~three~~3, ~~five~~5, and ~~eight~~8, *or who fail an end-of-course test required for the award of a verified unit of credit.*

Any student who does not pass ~~the literacy tests or~~ any of the Standards of Learning assessments in grades ~~three~~3, ~~five~~5, or ~~eight~~8 *or an end-of-course test required for the award of a verified unit of credit* shall be required to attend a summer school program or to participate in another form of remediation; any student who passes one or more, but not all, of the Standards of Learning assessments in grades ~~three~~3, ~~five~~5, or ~~eight~~8 may be required to attend a remediation program. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01. Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades ~~three~~3, ~~five~~5, or ~~eight~~8 *or an end-of-course test required for the award of a verified unit of credit.* Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation which has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program which has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board of Education shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

To ensure consistency in program quality, each school board may establish a remediation program standards committee which may include, but need not be limited to, the superintendent or his designee, a teacher, a parent, and one representative of the community at large. The remediation program standards committee shall recommend the program components for the remediation programs and shall evaluate the success of the programs. Such program components may include pupil/teacher ratios, objectives, and time, site, and duration of the programs and may include a mechanism to ensure the smooth transition of students between remediation programs and regular instructional programs.

D. Local school boards shall also implement the following:

1. Programs in grades K through 3 ~~which~~*that* emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development (GED) certificate. As provided in the appropriation act, state funding, in addition to basic aid, shall be allocated to support programs grounded in sound educational policy to reduce the number of students who drop out of school. From such funds as may be appropriated for this purpose, sufficient funds shall be provided to hold all local school divisions harmless by providing no-loss funding which maintains the level of each school division's funding as allocated for drop-out prevention programs on July 1, 1996, if the level of funding for such school division's drop-out prevention programs would be less than its level of funding for such programs in fiscal year 1995. Effective on and after July 1, 1996, the Board of Education shall develop and implement a funding mechanism to ensure that no school board is penalized in its state funding for drop-out prevention programs for reducing the drop-out rate in its school division.

3. Career and technical education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, the military, career education schools, and the teaching profession, and emphasize the

182 advantages of completing school with marketable skills. School boards may include career exploration
183 opportunities in the middle school grades.

184 4. Competency-based career and technical education programs, which integrate academic outcomes,
185 career guidance and job-seeking skills for all secondary students including those identified as disabled
186 that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and
187 career guidance. Career guidance shall include employment counseling designed to furnish information
188 on available employment opportunities to all students, including those identified as disabled, and
189 placement services for students exiting school. Each school board shall develop and implement a plan to
190 ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input
191 of area business and industry representatives and local community colleges and shall be submitted to the
192 Superintendent of Public Instruction in accordance with the timelines established by federal law.

193 5. Academic and career and technical education for students who plan to continue their education
194 beyond secondary school or who plan to enter employment.

195 6. Early identification of handicapped students and enrollment of such students in appropriate
196 instructional programs consistent with state and federal law.

197 7. Early identification of gifted students and enrollment of such students in appropriately
198 differentiated instructional programs.

199 8. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in
200 these standards. Such students shall be counted in average daily membership (ADM) in accordance with
201 the regulations of the Board of Education.

202 9. Adult education programs for individuals functioning below the high school completion level.
203 Such programs may be conducted by the school board as the primary agency or through a collaborative
204 arrangement between the school board and other agencies.

205 10. A plan to make achievements for students who are educationally at risk a divisionwide priority
206 which shall include procedures for measuring the progress of such students.

207 11. A plan to notify students and their parents of the availability of advanced placement classes, the
208 International Baccalaureate program, and Academic Year Governor's School Programs, the qualifications
209 for enrolling in such classes and programs, and the availability of financial assistance to low-income and
210 needy students to take the advanced placement and International Baccalaureate examinations.

211 E. Each local school board shall employ with state and local basic, special education, gifted, and
212 career and technical education funds a minimum number of licensed, full-time equivalent instructional
213 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
214 act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning
215 with the March 31 report of average daily membership, those school divisions offering half-day
216 kindergarten shall adjust their average daily membership for kindergarten to reflect ~~eighty-five~~85 percent
217 of the total kindergarten average daily memberships, as provided in the appropriation act.

218 F. In addition to the positions supported by basic aid and in support of regular school year remedial
219 programs, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time
220 equivalent instructional positions for each 1,000 students in grades K through 12 estimated to score in
221 the bottom national quartile on Virginia State Assessment Program Tests and those who fail the literacy
222 tests or Standards of Learning assessments for grades three, five, and eight prescribed by the Board.
223 State funding for remedial programs provided pursuant to this subsection and the appropriation act may
224 be used to support programs for educationally at-risk students as identified by the local school boards.
225 The Board of Education shall establish criteria for identification of educationally at-risk students, which
226 shall not be construed to be regulations as defined in § 2.2-4001; however, the Board of Education may,
227 from time to time, revise these identification criteria. In order to provide appropriate opportunity for
228 input from the general public, teachers, and local school boards, the Board of Education shall conduct
229 public hearings prior to establishing or revising such identification criteria. Thirty days prior to
230 conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the
231 hearings to all local school boards and any other persons requesting to be notified of the hearings and
232 publish notice of its intention to establish or revise such identification criteria in the Virginia Register of
233 Regulations. Interested parties shall be given reasonable opportunity to be heard and present information
234 prior to final adoption of any such identification criteria or revisions thereto.

235 G. Licensed instructional personnel shall be assigned by each school board in a manner that produces
236 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,
237 excluding special education teachers, principals, assistant principals, counselors, and librarians, that are
238 not greater than the following ratios: (i) ~~twenty-four~~24 to ~~one~~1 in kindergarten with no class being
239 larger than ~~twenty-nine~~29 students; if the average daily membership in any kindergarten class exceeds
240 ~~twenty-four~~24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) ~~twenty-four~~24 to ~~one~~1
241 in grade one with no class being larger than ~~thirty~~30 students; (iii) ~~twenty-four~~24 to ~~one~~1 in grades
242 ~~two~~2 and ~~three~~3 with no class being larger than ~~thirty~~30 students; (iv) ~~twenty-five~~25 to one in grades
243 ~~four~~4 through ~~six~~6 with no class being larger than ~~thirty-five~~35 students; and (v) ~~twenty-four~~24 to ~~one~~

1 in English classes in grades ~~six~~ 6 through ~~twelve~~ 12.

Further, pursuant to the appropriation act, school boards:

1. May implement in kindergarten through third grade, within certain schools, lower ratios of students in average daily membership to full-time equivalent teaching positions by assigning instructional personnel in a manner that produces ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, as follows: (i) in schools having high concentrations of at-risk students, ~~eighteen~~ 18 to one; and (ii) in schools having moderate concentrations of at-risk students, ~~twenty~~ 20 to one. For the purposes of this subsection, "schools having high concentrations of at-risk students" and "schools having moderate concentrations of at-risk students" shall be as defined in the appropriation act.

2. Shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of ~~twenty-five~~ 25 to one in middle schools and high schools.

School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios which include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade at-risk student/lower ratio program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

H. Students enrolled in a public school on a less than full-time basis shall be counted in average daily membership (ADM) in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the average daily membership (ADM) in the relevant school division on a pro rata basis as provided in the appropriation act. However, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

§ 22.1-254.01. Certain students required to attend summer school or after-school sessions

In the event that a student is required to take a special program of prevention, intervention, or remediation in a public summer school program or to participate in another form of remediation as provided in subsection C of § 22.1-253.13:1 and in accordance with clause (ii) of subsection A of § 22.1-254, and the division superintendent determines that remediation of the student's poor academic performance, passage of the Standards of Learning Assessment in grades ~~three~~ 3, ~~five~~ 5, or ~~eight~~ 8 or *end-of-course tests required for the award of a verified unit of credit*, or promotion is directly related to the student's attendance in such summer school program or participation in another form of remediation, and after a reasonable effort to seek the student's attendance in such session has failed, including direct notification of the parents or guardians of such student of the attendance requirement and failure of the parents or guardians to secure the student's attendance, the division superintendent may seek immediate compliance with the compulsory school attendance law as set forth in § 22.1-254.