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HOUSE BILL NO. 2636

Offered January 9, 2003

A BILL to amend and reenact § 22.1-253.13:1 of the Code of Virginia, relating to students with limited English proficiency.

Patrons—Van Landingham, Almand, Amundson, Baskerville, Bloxom, Brink, Darner, Dillard, Moran, Petersen, Plum, Scott, Van Yahres and Watts; Senators: Byrne, Howell, Puller and Ticer

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:1 of the Code of Virginia is amended and reenacted as follows:

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

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

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

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

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

With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of these objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall (i) in consultation with the chairpersons of the eight regional superintendents' study groups, establish a timetable for administering the Standards of Learning assessments to ensure genuine end-of-course and end-of-grade testing and (ii) with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. In

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58 prescribing such assessments, the Board shall provide local school boards the option of administering
59 tests for United States History to 1877, United States History: 1877 to the Present, and Civics and
60 Economics. The Board of Education shall make publicly available such assessments in a timely manner
61 and as soon as practicable following the administration of such tests, so long as the release of such
62 assessments does not compromise test security or deplete the bank of assessment questions necessary to
63 construct subsequent tests.

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

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

81 C. Local school boards shall develop and implement a program of instruction for grades K through
82 12 that emphasizes reading, writing, speaking, mathematical concepts and computations, proficiency in
83 the use of computers and related technology, and scientific concepts and processes; essential skills and
84 concepts of citizenship, including knowledge of Virginia history and world and United States history,
85 economics, government, foreign languages, international cultures, health and physical education,
86 environmental issues and geography necessary for responsible participation in American society and in
87 the international community; fine arts, which may include, but need not be limited to, music and art,
88 and practical arts; knowledge and skills needed to qualify for further education and employment or, in
89 the case of some handicapped children, to qualify for appropriate training; and development of the
90 ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning.
91 School boards shall strive to employ licensed instructional personnel qualified in the relevant subject
92 areas, including qualified teachers, licensed through the Board of Education's provisional licensure
93 procedures, who have professional expertise in the relevant subject areas.

94 Local school boards shall also develop and implement programs of prevention, intervention, or
95 remediation for students who are educationally at risk including, but not limited to, those whose scores
96 are in the bottom national quartile on Virginia State Assessment Program Tests, or who fail to achieve a
97 passing score on any Standards of Learning assessment in grades ~~three~~3, ~~five~~5, and ~~eight~~8.

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

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

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

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

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

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

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

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

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

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

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

12. *Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs.*

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

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

205 *F1. In addition to the positions supported by basic aid and those in support of regular school year*
206 *remedial programs, state funding, pursuant to the appropriation act, shall be provided to support 10*
207 *full-time equivalent instructional positions for each 1,000 students identified as having limited English*
208 *proficiency.*

209 G. Licensed instructional personnel shall be assigned by each school board in a manner that produces
210 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,
211 excluding special education teachers, principals, assistant principals, counselors, and librarians, that are
212 not greater than the following ratios: (i) ~~twenty-four~~24 to ~~one~~ 1 in kindergarten with no class being
213 larger than ~~twenty-nine~~29 students; if the average daily membership in any kindergarten class exceeds
214 ~~twenty-four~~24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) ~~twenty-four~~24 to ~~one~~ 1
215 in grade ~~one~~ 1 with no class being larger than thirty students; (iii) twenty-four to one in grades two and
216 three with no class being larger than ~~thirty~~ 30 students; (iv) ~~twenty-five~~25 to ~~one~~ 1 in grades ~~four~~ 4
217 through ~~six~~ 6 with no class being larger than ~~thirty-five~~35 students; and (v) ~~twenty-four~~24 to ~~one~~ 1 in
218 English classes in grades ~~six~~ 6 through ~~twelve~~12.

219 Further, pursuant to the appropriation act, school boards:

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

228 2. Shall assign instructional personnel in a manner that produces schoolwide ratios of students in
229 average daily memberships to full-time equivalent teaching positions of ~~twenty-five~~25 to ~~one~~ 1 in middle
230 schools and high schools.

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

240 H. Students enrolled in a public school on a less than full-time basis shall be counted in average
241 daily membership (ADM) in the relevant school division. Students who are either (i) enrolled in a
242 nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in

243 public school on a less than full-time basis in any mathematics, science, English, history, social science,
244 career and technical education, fine arts, foreign language, or health education or physical education
245 course shall be counted in the ~~average daily membership~~ (ADM) in the relevant school division on a pro
246 rata basis as provided in the appropriation act. However, no such nonpublic or home school student shall
247 be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation
248 shall not include enrollments of such students in any other public school courses.

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