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HOUSE BILL NO. 1885

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on January 19, 2011)

(Patrons Prior to Substitute—Delegates Bell, R.P. and Torian [HB 2242])

A BILL to amend and reenact §§ 22.1-79.1, 22.1-92, 22.1-93, 22.1-199.1, 22.1-212.2, 22.1-212.2:2, and 22.1-217.01 of the Code of Virginia and to repeal §§ 22.1-208.1, 22.1-208.2, 22.1-208.2:1, 22.1-208.2:2, 22.1-209.01, 22.1-209.1, 22.1-209.1:1, 22.1-209.1:6, 22.1-212.2:3, 22.1-274.01, and 22.1-291 of the Code of Virginia, relating to outdated language and unfunded educational programs.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79.1, 22.1-92, 22.1-93, 22.1-199.1, 22.1-212.2, 22.1-212.2:2, and 22.1-217.01 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-79.1. Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be after Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets one of the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means:

1. A school division has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations;

2. A school division is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding the ~~electronic classroom~~ Virtual Virginia, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver. However, any waiver granted by the Board of Education pursuant to this subdivision shall only apply to the opening date for those schools where such dependent programs are provided; or

3. A school division is providing its students, in the school year for which the waiver is sought, with an experimental or innovative program which requires an earlier opening date than that established in subsection A of this section and which has been approved by the Department of Education pursuant to the regulations of the Board of Education establishing standards for accrediting public schools. However, any waiver or extension of the school year granted by the Board of Education pursuant to this subdivision or its standards for accrediting public schools for such an experimental or innovative program shall only apply to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school. For the purposes of this subdivision, experimental or innovative programs shall include instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools.

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through twelve and 540 hours for kindergarten. No alternative plan that reduces the instructional time in the core academics of English, mathematics, social studies, and science shall be approved.

§ 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

A. It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division, each division superintendent shall also prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of the estimated average per pupil cost for public education in the school division for the coming school year to each parent, guardian, or other person having control or charge of a child enrolled in the relevant school division, in accordance with the budget estimates provided to the local governing body or bodies. Such notification shall also include actual per pupil state and local education expenditures for the previous school year. The notice may also include federal funds expended for public education in the school division.

The notice shall be ~~printed on~~ made available in a form ~~prescribed~~ provided by the Board

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60 Department of Education and shall be distributed separately or with any other materials being currently  
 61 transmitted to the parents, guardians or other persons having control or charge of students published on  
 62 the school division's website or in hard copy upon request. To promote uniformity and allow for  
 63 comparisons, the Board Department of Education shall develop a one-page form for this notice and  
 64 distribute such form to the school superintendents divisions for duplication and distribution publication.

65 B. Before any school board gives final approval to its budget for submission to the governing body,  
 66 the school board shall hold at least one public hearing to receive the views of citizens within the school  
 67 division. A school board shall cause public notice to be given at least ten days prior to any hearing by  
 68 publication in a newspaper having a general circulation within the school division. The passage of the  
 69 budget by the local government shall be conclusive evidence of compliance with the requirements of  
 70 this section.

71 § 22.1-93. Approval of annual budget for school purposes.

72 Notwithstanding any other provision of law, including but not limited to Chapter 25 (§ 15.2-2500 et  
 73 seq.) of Title 15.2, the governing body of a county shall prepare and approve an annual budget for  
 74 educational purposes by May first or within thirty days of the receipt by the county of the estimates of  
 75 state funds, whichever shall later occur, and the governing body of a municipality shall prepare and  
 76 approve an annual budget for educational purposes by May fifteen or within thirty days of the receipt by  
 77 the municipality of the estimates of state funds, whichever shall later occur. Upon approval, each local  
 78 school division shall publish the approved annual budget, including the estimated required local match,  
 79 on the division's website, if any, or if there is no division website, and the document shall otherwise  
 80 also be made available in hard copy as needed to citizens for inspection.

81 The Superintendent of Public Instruction shall, no later than the fifteenth day following final  
 82 adjournment of the Virginia General Assembly in each session, submit estimates to be used for  
 83 budgetary purposes relative to the Basic School Aid Formula to each school division and to the local  
 84 governing body of each county, city and town that operates a separate school division. Such estimates  
 85 shall be for each year of the next biennium or for the then next fiscal year.

86 § 22.1-199.1. Programs designed to promote educational opportunities.

87 A. The General Assembly finds that Virginia educational research supports the conclusion that poor  
 88 children are more at risk of educational failure than children from more affluent homes and that reduced  
 89 pupil/teacher ratios and class sizes result in improved academic performance among young children; to  
 90 this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class  
 91 sizes for grades K through three in those schools in the Commonwealth with high or moderate  
 92 concentrations of at-risk students.

93 With such funds as are provided in the appropriation act for this purpose, there is hereby established  
 94 the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching  
 95 the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K  
 96 through three in schools with high or moderate concentrations of at-risk students, consistent with the  
 97 provisions provided in the appropriation act.

98 In order to facilitate these primary grade ratio and class size reductions, the Department of Education  
 99 shall calculate the state funding of these voluntary ratio and class size reductions based on the  
 100 incremental cost of providing the lower class sizes according to the greater of the division average  
 101 per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching  
 102 funds for these voluntary ratio and class size reductions based on the composite index of local ability to  
 103 pay. School divisions shall notify the Department of Education of their intention to implement the  
 104 reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By  
 105 March 31 of each year, school divisions shall forward data substantiating that each participating school  
 106 has a complying pupil/teacher ratio.

107 In developing each proposed biennium budget for public education, the Board of Education shall  
 108 include funding for these ratios and class sizes. These ratios and class sizes shall be included in the  
 109 annual budget for public education.

110 B. The General Assembly finds that educational technology is one of the most important  
 111 components, along with highly skilled teachers, in ensuring the delivery of quality public school  
 112 education throughout the Commonwealth. Therefore, the Board of Education shall strive to incorporate  
 113 technological studies within the teaching of all disciplines. Further, the General Assembly notes that  
 114 educational technology can only be successful if teachers and administrators are provided adequate  
 115 training and assistance. To this end, the following program is established.

116 With such funds as are appropriated for this purpose, the Board of Education shall award to the  
 117 several school divisions grants for expanded access to educational technology. Funding for educational  
 118 technology training for instructional personnel shall be provided as set forth in the appropriation act.

119 Funds for improving the quality and capacity of educational technology shall also be provided as set  
 120 forth in the appropriation act, including, but not limited to, (i) funds for providing a technology resource  
 121 assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998, and (ii)

122 funds for implementing the Family Involvement in Technology program as established in § 22.1-212.2:3,  
 123 and (iii) funds to maintain the currency of career and technical education programs. Any local school  
 124 board accepting funds to hire technology resource assistants, implement the Family Involvement in  
 125 Technology program or maintain currency of career and technical education programs shall commit to  
 126 providing the required matching funds, based on the composite index of local ability to pay.

127 Each qualifying school board shall establish an individualized technology plan, which shall be  
 128 approved by the Superintendent of Public Instruction, for integrating technology into the classroom and  
 129 into schoolwide instructional programs, including career and technical education programs. The grants  
 130 shall be prioritized as follows:

131 1. In the 1994 biennium, the first priority for these funds shall be to automate the library media  
 132 centers and provide network capabilities in Virginia's elementary, middle and high schools, or  
 133 combination thereof, in order to ensure access to the statewide library and other information networks. If  
 134 any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be  
 135 used to provide other educational technologies identified in the relevant division's approved technology  
 136 plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan  
 137 programs, career and technical education laboratories or other electronic techniques designed to enhance  
 138 public education and to facilitate teacher training in and implementation of effective instructional  
 139 technology. The Board shall also distribute, as provided in the appropriation act, funds to support the  
 140 purchase of electronic reference materials for use in the statewide automated reference system.

141 2. In the 1996 biennium and thereafter, the first priority for funding shall be consistent with those  
 142 components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting  
 143 and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one  
 144 network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to  
 145 network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required  
 146 by the Standards of Learning, and (d) training and professional development on available technologies  
 147 and software to all levels and positions, including professional development for personnel delivering  
 148 career and technical education at all levels and positions; and (iii) assisting school divisions in  
 149 developing integrated voice-, video-, and data-connectivity to local, national and international resources.

150 This funding may be used to implement a local school division's long-range technology plan, at the  
 151 discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the  
 152 Board's revised six-year technology plan and has been approved by the Superintendent of Public  
 153 Instruction.

154 3. The Departments of Education, Information Technology, and General Services shall coordinate  
 155 master contracts for the purchase by local school boards of the aforementioned educational technologies  
 156 and reference materials.

157 4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be  
 158 appropriated for this purpose, implemented to replace obsolete educational hardware and software. As  
 159 provided in subsection D of § 22.1-129, school boards may donate obsolete educational technology  
 160 hardware and software which are being replaced. Any such donations shall be offered to other school  
 161 divisions and to preschool programs in the Commonwealth, or to public school students as provided in  
 162 guidelines to be promulgated by the Board of Education. Such guidelines shall include criteria for  
 163 determining student eligibility and need; a reporting system for the compilation of information  
 164 concerning the number and socioeconomic characteristics of recipient students; and notification of  
 165 parents of the availability of such donations of obsolete educational hardware and software.

166 5. In fiscal year 2000, the Board of Education shall, with such funds as are appropriated for this  
 167 purpose, contract for the development or purchase of interactive educational software and other  
 168 instructional materials designed as tutorials to improve achievement on the Standards of Learning  
 169 assessments. Such interactive educational software and other instructional materials may be used in  
 170 media centers, computer laboratories, libraries, after-school or before-school programs or remedial  
 171 programs by teachers and other instructional personnel or provided to parents and students to be used in  
 172 the home. This interactive educational software and other instructional materials shall only be used as  
 173 supplemental tools for instruction, remediation, and acceleration of the learning required by the K  
 174 through 12 Standards of Learning objectives.

175 Consistent with school board policies designed to improve school-community communications and  
 176 guidelines for providing instructional assistance in the home, each school division shall strive to  
 177 establish a voice mail communication system after regular school hours for parents, families, and  
 178 teachers by the year 2000.

179 C. The General Assembly finds that effective prevention programs designed to assist children at risk  
 180 of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for  
 181 ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the  
 182 twenty-first century; to this end, the following program is hereby established. With such funds as are

183 appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed  
184 by the Department of Education to schools and community-based organizations to provide quality  
185 preschool programs for at-risk four-year-olds who are unserved by Head Start programs and for at-risk  
186 five-year-olds who are not eligible to attend kindergarten.

187 The grants shall be used to provide at least half-day services for the length of the school year for  
188 at-risk four-year-old children who are unserved by Head Start programs and for at-risk five-year-olds  
189 who are not eligible to attend kindergarten. The services shall include quality preschool education, health  
190 services, social services, parental involvement including activities to promote family literacy, and  
191 transportation.

192 The Department of Education, in cooperation with such other state agencies that may coordinate  
193 child day care and early childhood programs, shall establish guidelines for quality preschool education  
194 and criteria for the service components, consistent with the findings of the November 1993 study by the  
195 Board of Education, the Department of Education, and the Council on Child Day Care and Early  
196 Childhood Programs.

197 The guidelines for quality preschool education and criteria for preschool education services may be  
198 differentiated according to the agency providing the services in order to comply with various relevant  
199 federal or state requirements. However, the guidelines for quality preschool education and the criteria for  
200 preschool education services shall require when such services are being provided by the public schools  
201 of the Commonwealth, and may require for other service providers, that (i) one teacher shall be  
202 employed for any class of nine students or less, (ii) if the average daily membership in any class  
203 exceeds nine students but does not exceed 18, a full-time teacher's aide shall be assigned to the class,  
204 and (iii) the maximum class size shall be 18 students.

205 School divisions may apply for and be granted waivers from these guidelines by the Department of  
206 Education.

207 During the 1995-1996 fiscal year, the Board of Education shall, with such funds as are appropriated  
208 for this purpose, distribute grants, based on an allocation formula providing the state share of the grant  
209 per child, as specified in the appropriation act, for 30 percent of the unserved at-risk four-year-olds in  
210 the Commonwealth pursuant to the funding provided in the appropriation act.

211 During the 1996-1997 fiscal year and thereafter, grants shall be distributed, with such funds as are  
212 appropriated for this purpose, based on an allocation formula providing the state share of the grant per  
213 child, as specified in the appropriation act, for at least 60 percent of the unserved at-risk four-year-olds  
214 and five-year-olds who are not eligible to attend kindergarten in the Commonwealth, such 60 percent to  
215 be calculated by adding services for 30 percent more of the unserved at-risk children to the 30 percent  
216 of unserved at-risk children in each locality provided funding in the appropriation act.

217 Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may  
218 use federal funds or local funds for this expansion or may seek funding through this grant program for  
219 such purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent  
220 allocation, to expand services to at-risk four-year-olds beyond the 60 percent goal.

221 In order for a locality to qualify for these grants, the local governing body shall commit to providing  
222 the required matching funds, based on the composite index of local ability to pay. Localities may use,  
223 for the purposes of meeting the local match, local or other nonstate expenditures for existing qualifying  
224 programs and shall also continue to pursue and coordinate other funding sources, including child care  
225 subsidies. Funds received through this program shall be used to supplement, not supplant, any local  
226 funds currently provided for preschool programs within the locality.

227 D. The General Assembly finds that local autonomy in making decisions on local educational needs  
228 and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public  
229 schools only when coupled with sufficient state funding; to this end, the following block grant program  
230 is hereby established. With such funds as are provided in the appropriation act, the Department of  
231 Education shall distribute block grants to localities to enable compliance with the Commonwealth's  
232 requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such  
233 compliance, the block grant herein established shall consist of a sum equal to the amount appropriated  
234 in the appropriation act for the covered programs, including the at-risk add-on program; dropout  
235 prevention, specifically Project YES; Project Discovery; English as a second language programs,  
236 including programs for overage, nonschooled students; Advancement Via Individual Determination  
237 (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed  
238 Assistance Program, except that such funds shall not be used to pay any college expenses of  
239 participating students; Reading Recovery; and school/community health centers. Each school board may  
240 use any funds received through the block grant to implement the covered programs and other programs  
241 designed to save the Commonwealth's children from educational failure.

242 E. In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as  
243 may be appropriated for this purpose, each school board may employ additional classroom teachers,  
244 remedial teachers, and reading specialists for each of its elementary schools over the requirements of the

245 Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers,  
246 and reading specialists shall be apportioned as provided in the appropriation act.

247 F. Pursuant to a turnaround specialist program administered by the Department of Education, local  
248 school boards may enter into agreements with individuals to be employed as turnaround specialists to  
249 address those conditions at the school that may impede educational progress and effectiveness and  
250 academic success. Local school boards may offer such turnaround specialists or other administrative  
251 personnel incentives such as increased compensation, improved retirement benefits in accordance with  
252 Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with  
253 § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

254 G. The General Assembly finds that certain schools have particular difficulty hiring teachers for  
255 certain subject areas and that the need for such teachers in these schools is particularly strong.  
256 Accordingly in an effort to attract and retain high quality teachers, local school boards may offer  
257 instructional personnel serving in such schools as a member of a middle school teacher corps  
258 administered by the Department of Education incentives such as increased compensation, improved  
259 retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred  
260 compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may  
261 be determined by the board.

262 For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel  
263 who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight  
264 where there is a critical need, as determined by the Department of Education. The contract between such  
265 persons and the relevant local school board shall specify that the contract is for service in the middle  
266 school teacher corps.

267 § 22.1-212.2. Virtual Virginia.

268 From such funds as are appropriated, the ~~Board~~ Department of Education shall establish a ~~Statewide~~  
269 ~~Electronic Classroom Program~~ *statewide electronic classroom to be known as the Virtual Virginia*  
270 *Program. The Statewide Electronic Classroom Program Virtual Virginia* shall be made available to every  
271 public high school.

272 The ~~Board~~ Department may utilize the services of the Commonwealth's ~~five~~ educational television  
273 stations and ~~earth satellite stations~~ *other providers*, as well as any other appropriate technology for the  
274 purposes of implementing the ~~Statewide Electronic Classroom Program~~ *Virtual Virginia*.

275 The services of this program shall be limited to educational purposes. Educational purposes shall  
276 include, but not be limited to, ~~classroom~~ instruction in subject areas ~~which~~ *that* are not available in all  
277 schools and inservice training for instructional, administrative and support personnel.

278 § 22.1-212.2:2. Educational technology foundations and public school foundations.

279 A. As used in this section:

280 "Educational technology" means any software, hardware, or other equipment or infrastructure or  
281 technical assistance or instruction in the use of such software, hardware or other equipment or  
282 infrastructure ~~which~~ *that* may be required to implement a local school board's approved plan for  
283 educational technology; ~~the Family Involvement in Technology program pursuant to § 22.1-212.2:3~~, or  
284 the Board of Education's comprehensive technology plan for Virginia described in § 22.1-253.13:6.

285 "Educational technology foundation" means a nonstock, nonprofit corporation, established for the  
286 express purpose of implementing a public/private partnership to expand access to and improve the  
287 quality of educational technology in a school division.

288 "Public school foundation" means a nonstock, nonprofit corporation, established for the express  
289 purpose of implementing a public/private partnership to implement public school improvement projects  
290 approved by the local school board.

291 "Public school improvement project" means any project designed to achieve an educational purpose  
292 that may be identified in Title 22.1.

293 B. Any school board may establish educational technology and public school foundations. Such  
294 foundations may be established directly by the school board or by the school board and other  
295 organizations or persons, on behalf of the school board by a third party, or through a contract with a  
296 corporation as defined in this section. Such foundations may be established as a cooperative regional  
297 effort by two or more school boards.

298 C. Upon establishing or contracting with such nonstock, nonprofit corporation, whether or not other  
299 organizations, school boards or persons are involved, a school board shall:

- 300 1. Review and approve the articles of incorporation and bylaws;
- 301 2. Establish a system of accounting to protect public funds;
- 302 3. Establish agreement that, upon dissolution of such corporation, any assets remaining after payment  
303 of just debts shall be transferred to and become the property of the school board or, if a regional effort,  
304 the procedure by which the property may be divided among the school boards;
- 305 4. Require, in any instance in which the school board advances, contributes or loans funds to the

306 corporation, that such contract shall provide for the posting of a bond with surety by the officers of such  
307 corporation conditioned to protect the rights of the school board;

308 5. Establish terms for the allocation of any profits or revenues between the school board and the  
309 corporation; and

310 6. Take such other steps as may be necessary to comply with applicable law.

311 D. A school board may (i) advance, contribute or loan funds to such foundations and (ii) establish an  
312 escrow fund for the purpose of funding various educational technology projects, in the case of an  
313 educational technology foundation, or public school improvement projects approved by the local school  
314 board, in the case of a public school foundation.

315 E. A school board that makes purchases through its public school foundation or purchases  
316 educational technology through its educational technology foundation, either as may be established  
317 pursuant to this section shall be exempt from the provisions of the Virginia Public Procurement Act  
318 (§ 2.2-4300 et seq.), as provided in subsection E of § 2.2-4300, except, relative to such purchases, the  
319 school board shall comply with the provisions of § 2.2-4311 and §§ 2.2-4367 through 2.2-4377.

320 § 22.1-217.01. Information on educational and other services for students identified as hearing or  
321 visually impaired.

322 The Department of Education shall annually prepare and distribute to local school boards packets of  
323 information describing the educational and other services available through the Virginia School for the  
324 Deaf and the Blind at Staunton, the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton,  
325 the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind  
326 and Vision Impaired to students who are identified as hearing impaired or visually impaired. Local  
327 school boards shall annually distribute this information to the parents of those students who are  
328 identified as hearing impaired or visually impaired.

329 2. That §§ 22.1-208.1, 22.1-208.2, 22.1-208.2:1, 22.1-208.2:2, 22.1-209.01, 22.1-209.1, 22.1-209.1:1,  
330 22.1-209.1:6, 22.1-212.2:3, 22.1-274.01, and 22.1-291 of the Code of Virginia are repealed.