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SENATE BILL NO. 1374

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health)  
(Patron Prior to Substitute—Senator Alexander)  
Senate Amendments in [ ] — February 19, 2013

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to requirements for schools that have been denied accreditation.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, and evaluation.

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited to, student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, course and credit requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board shall review annually the accreditation status of all schools in the Commonwealth.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall review the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education has obtained evidence through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division level failure to implement the Standards of Quality, the Board may require a division level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit for approval by the Board a corrective action plan, consistent with criteria established by the Board and setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall report the results of such academic review and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.

When the Board determines that a school that has been denied accreditation has failed to demonstrate satisfactory progress toward full accreditation in accordance with the local school board's corrective action plan, the local school board shall implement meaningful interventions designed to improve the academic achievement of students in such school. The local school board shall solicit the input of parents and the community prior to implementing such interventions. Such interventions shall be set forth in an agreement between the Board and the local school board and, notwithstanding any other provision of law to the contrary, shall be consistent with the following principles: (i) reviewing the performance of the current principal and either (a) replacing the principal if such a change is necessary to ensure strong and effective leadership or (b) demonstrating to the Board that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort; (ii) providing the principal with operational flexibility in the areas of scheduling, staff, curriculum, and budget; (iii) reviewing the quality of all staff and retaining only those who are determined to be effective and have the ability to be successful in the turnaround effort; (iv) providing ongoing professional development informed by the teacher evaluation and support systems and tied to teacher and student needs; (v) redesigning the school day, week, or year, as deemed necessary, to include additional time for student learning and teacher collaboration; (vi) strengthening the school's instructional program based on students' needs and ensuring that the instructional program is

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60 *research-based, rigorous, and aligned with state academic content standards; (vii) using data to inform*  
61 *instruction and for continuous improvement, including by providing time for collaboration on the use of*  
62 *data; (viii) establishing a school environment that improves school safety and discipline and addressing*  
63 *other non-academic factors that impact student achievement, such as students' social, emotional, and*  
64 *health needs; and (ix) providing ongoing mechanisms for family and community engagement. The Board*  
65 *shall appoint an experienced external educational consultant to work with the local school board and*  
66 *principal in implementing the interventions. The Board shall determine whether additional state or local*  
67 *resources are necessary to implement the interventions. In lieu of implementing these interventions, the*  
68 *local school board may convert the school or close it and reopen it as a charter school or under an*  
69 *education management organization.*

70 B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve  
71 criteria for determining and recognizing educational performance in the Commonwealth's public school  
72 divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation  
73 process and shall include student outcome measurements. The Superintendent of Public Instruction shall  
74 annually identify to the Board those school divisions and schools that exceed or do not meet the  
75 approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public  
76 education programs in the various school divisions in Virginia and recommendations to the General  
77 Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing  
78 educational performance in the school divisions, the Board shall include consideration of special school  
79 division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and  
80 International Baccalaureate courses, and participation in academic year Governor's Schools.

81 The Superintendent of Public Instruction shall assist local school boards in the implementation of  
82 action plans for increasing educational performance in those school divisions and schools that are  
83 identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor  
84 the implementation of and report to the Board of Education on the effectiveness of the corrective actions  
85 taken to improve the educational performance in such school divisions and schools.

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

94 In prescribing such Standards of Learning assessments, the Board shall provide local school boards  
95 the option of administering tests for United States History to 1877, United States History: 1877 to the  
96 Present, and Civics and Economics. The last administration of the cumulative grade eight history test  
97 will be during the 2007-2008 academic school year. Beginning with the 2008-2009 academic year, all  
98 school divisions shall administer the United States History to 1877, United States History: 1877 to the  
99 Present, and Civics and Economics tests. The Board shall also provide the option of industry  
100 certification and state licensure examinations as a student-selected verified credit.

101 The Board of Education shall make publicly available such assessments in a timely manner and as  
102 soon as practicable following the administration of such tests, so long as the release of such assessments  
103 does not compromise test security or deplete the bank of assessment questions necessary to construct  
104 subsequent tests, or limit the ability to test students on demand and provide immediate results in the  
105 web-based assessment system.

106 The Board shall include in the student outcome measures that are required by the Standards for  
107 Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by  
108 the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall  
109 include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics,  
110 science, and history and social science.

111 In addition, to assess the educational progress of students, the Board of Education shall (i) (a)  
112 develop appropriate assessments, which may include criterion-referenced tests and alternative assessment  
113 instruments that may be used by classroom teachers; (ii) (b) select appropriate industry certification and  
114 state licensure examinations; and (iii) (c) prescribe and provide measures, which may include nationally  
115 normed tests to be used to identify students who score in the bottom quartile at selected grade levels.  
116 An annual justification that includes evidence that the student meets the participation criteria defined by  
117 the Virginia Department of Education shall be provided for each student considered for the Virginia  
118 Grade Level Alternative. Each Individual Education Program team shall review such justification and  
119 make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for  
120 the student. The superintendent and the school board chairman shall certify to the Board of Education,  
121 as a part of certifying compliance with the Standards of Quality, that there is a justification in the

122 Individual Education Program for every student who takes the Virginia Grade Level Alternative.  
123 Compliance with this requirement shall be monitored as a part of the special education monitoring  
124 process conducted by the Department of Education. The Board shall report to the Governor and General  
125 Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with  
126 this requirement.

127 The Standards of Learning requirements, including all related assessments, shall be waived for any  
128 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
129 § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED)  
130 certificate or in an adult basic education program to obtain the high school diploma.

131 The Board of Education may adopt special provisions related to the administration and use of any  
132 ~~SOE~~ *Standards of Learning* test or tests in a content area as applied to accreditation ratings for any  
133 period during which the ~~SOE~~ *Standards of Learning* content or assessments in that area are being  
134 revised and phased in. Prior to statewide administration of such tests, the Board of Education shall  
135 provide notice to local school boards regarding such special provisions.

136 D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or  
137 administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of  
138 test materials or test results.

139 The Board may initiate or cause to be initiated a review or investigation of any alleged breach in  
140 security, unauthorized alteration, or improper administration of tests, including the exclusion of students  
141 from testing who are required to be assessed, by local school board employees responsible for the  
142 distribution or administration of the tests.

143 Records and other information furnished to or prepared by the Board during the conduct of a review  
144 or investigation may be withheld pursuant to subdivision 12 of § 2.2-3705.3. However, this section shall  
145 not prohibit the disclosure of records to (i) a local school board or division superintendent for the  
146 purpose of permitting such board or superintendent to consider or to take personnel action with regard to  
147 an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a)  
148 does not reveal the identity of any person making a complaint or supplying information to the Board on  
149 a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any  
150 local school board or division superintendent receiving such records or other information shall, upon  
151 taking personnel action against a relevant employee, place copies of such records or information relating  
152 to the specific employee in such person's personnel file.

153 Notwithstanding any other provision of state law, no test or examination authorized by this section,  
154 including the Standards of Learning assessments, shall be released or required to be released as  
155 minimum competency tests, if, in the judgment of the Board, such release would breach the security of  
156 such test or examination or deplete the bank of questions necessary to construct future secure tests.

157 E. With such funds as may be appropriated, the Board of Education may provide, through an  
158 agreement with vendors having the technical capacity and expertise to provide computerized tests and  
159 assessments, and test construction, analysis, and security, for (i) web-based computerized tests and  
160 assessments for the evaluation of student progress during and after remediation and (ii) the development  
161 of a remediation item bank directly related to the Standards of Learning.

162 F. To assess the educational progress of students as individuals and as groups, each local school  
163 board shall require the use of Standards of Learning assessments and other relevant data, such as  
164 industry certification and state licensure examinations, to evaluate student progress and to determine  
165 educational performance. Each local school shall require the administration of appropriate assessments to  
166 all students for grade levels and courses identified by the Board of Education, which may include  
167 criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the  
168 Standards of Learning Assessments and the National Assessment of Educational Progress state-by-state  
169 assessment. Each school board shall analyze and report annually, in compliance with any criteria that  
170 may be established by the Board of Education, the results from the Stanford Achievement Test Series,  
171 Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the  
172 Standards of Learning Assessments to the public.

173 The Board of Education shall not require administration of the Stanford Achievement Test Series,  
174 Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the  
175 requirements for home instruction pursuant to § 22.1-254.1.

176 The Board shall include requirements for the reporting of the Standards of Learning assessment  
177 scores and averages for each year as part of the Board's requirements relating to the School Performance  
178 Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia  
179 assessment program as appropriate and shall be reported to the public within three months of their  
180 receipt. These reports (i) shall be posted on the portion of the Department of Education's website  
181 relating to the School Performance Report Card, in a format and in a manner that allows year-to-year  
182 comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state

183 assessment.

184 G. Each local school division superintendent shall regularly review the division's submission of data  
185 and reports required by state and federal law and regulations to ensure that all information is accurate  
186 and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the  
187 required reports and data to division superintendents annually. The status of compliance with this  
188 requirement shall be included in the Board of Education's annual report to the Governor and the General  
189 Assembly as required by § 22.1-18.

190 H. Any school board, on behalf of one or more of its schools, may request the Board of Education  
191 for releases from state regulations and for approval of an Individual School Accreditation Plan for the  
192 evaluation of the performance of one or more of its schools as authorized for certain other schools by  
193 the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.

194 [ **2. That the provisions of this act shall not become effective unless an appropriation of general**  
195 **funds effectuating the purposes of this act is included in a general appropriation act passed by the**  
196 **2013 Session of the General Assembly, which becomes law. ]**