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HOUSE BILL NO. 930

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13.2 of Title 22.1 a section numbered 22.1-253.13:10, relating to Standards of Learning assessments; reform.

Patrons—Greason, Habeeb, Krupicka, Yancey, Adams, Albo, Anderson, Austin, BaCote, Bell, Richard P., Bell, Robert B., Berg, Brink, Bulova, Campbell, Carr, Chafin, Cole, Comstock, Cox, Dance, Davis, DeSteph, Fariss, Farrell, Filler-Corn, Fowler, Futrell, Garrett, Gilbert, Head, Helsel, Herring, Hester, Hodges, Hope, Howell, A.T., Howell, W.J., Hugo, James, Joannou, Keam, Kilgore, Knight, Kory, Landes, LaRock, Leftwich, Lingamfelter, Lopez, Mason, Massie, McClellan, McQuinn, Minchew, Morefield, Morris, Morrissey, Orrock, Peace, Plum, Poindexter, Ramadan, Robinson, Rush, Rust, Scott, Sickles, Spruill, Stolle, Surovell, Taylor, Torian, Toscano, Tyler, Villanueva, Ward, Ware, Watts, Webert, Wilt and Yost

Referred to Committee on Education

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 and that the Code of Virginia is amended by adding in Chapter 13.2 of Title 22.1 a section numbered 22.1-253.13:10 as follows:

§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.

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.

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation

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52 process and shall include student outcome measurements. The Superintendent of Public Instruction shall
53 annually identify to the Board those school divisions and schools that exceed or do not meet the
54 approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public
55 education programs in the various school divisions in Virginia and recommendations to the General
56 Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing
57 educational performance in the school divisions, the Board shall include consideration of special school
58 division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and
59 International Baccalaureate courses, and participation in academic year Governor's Schools.

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

65 C. With such funds as are available for this purpose, the Board of Education shall prescribe
66 assessment methods to determine the level of achievement of the Standards of Learning objectives by all
67 students. *The number and type of assessments shall meet the minimal requirements established by the*
68 *federal Elementary and Secondary Education Act of 1965, as amended.* Such assessments shall evaluate
69 knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning
70 being assessed. The Board shall (i) in consultation with the chairpersons of the eight regional
71 superintendents' study groups, establish a timetable for administering the Standards of Learning
72 assessments to ensure genuine end-of-course and end-of-grade testing and (ii) with the assistance of
73 independent testing experts, conduct a regular analysis and validation process for these assessments.

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

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

86 The Board shall include in the student outcome measures that are required by the Standards for
87 Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by
88 the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall
89 include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics,
90 science, and history and social science. Local school divisions shall provide targeted mathematics
91 remediation and intervention to students in grades six through eight who show computational
92 deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level
93 Standards of Learning mathematics test that measures non-calculator computational skills.

94 In addition, to assess the educational progress of students, the Board of Education shall (a) develop
95 appropriate assessments, which may include criterion-referenced tests and alternative assessment
96 instruments that may be used by classroom teachers; (b) select appropriate industry certification and
97 state licensure examinations; and (c) prescribe and provide measures, which may include nationally
98 normed tests to be used to identify students who score in the bottom quartile at selected grade levels.
99 An annual justification that includes evidence that the student meets the participation criteria defined by
100 the Virginia Department of Education shall be provided for each student considered for the Virginia
101 Grade Level Alternative. Each Individual Education Program team shall review such justification and
102 make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for
103 the student. The superintendent and the school board chairman shall certify to the Board of Education,
104 as a part of certifying compliance with the Standards of Quality, that there is a justification in the
105 Individual Education Program for every student who takes the Virginia Grade Level Alternative.
106 Compliance with this requirement shall be monitored as a part of the special education monitoring
107 process conducted by the Department of Education. The Board shall report to the Governor and General
108 Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with
109 this requirement.

110 The Standards of Learning requirements, including all related assessments, shall be waived for any
111 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to
112 § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED)
113 certificate or in an adult basic education program to obtain the high school diploma.

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

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

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

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 11 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

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

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

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

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

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

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

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the

175 evaluation of the performance of one or more of its schools as authorized for certain other schools by
176 the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.
177 Waivers of regulatory requirements may be granted by the Board of Education based on submission of a
178 request from the division superintendent and chairman of the local school board. The Board of
179 Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i)
180 mandated by state or federal law or (ii) designed to promote health or safety. The school board shall
181 provide in its waiver request a description of how the releases from state regulations are designed to
182 increase the quality of instruction and improve the achievement of students in the affected school or
183 schools. The Department of Education shall provide (a) guidance to any local school division that
184 requests releases from state regulations and (b) information about opportunities to form partnerships with
185 other agencies or entities to any local school division in which the school or schools granted releases
186 from state regulations have demonstrated improvement in the quality of instruction and the achievement
187 of students.

188 The Board of Education may also grant local school boards waivers of specific requirements in
189 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the
190 local school board, permitting the local school board to assign instructional personnel to the schools with
191 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide
192 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size
193 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its
194 request a description of how the waivers from specific Standards of Quality staffing standards are
195 designed to increase the quality of instruction and improve the achievement of students in the affected
196 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on
197 student achievement results in the affected school or schools.

198 **§ 22.1-253.13:10. Standards of Learning Revision Committees.**

199 *A. The Board shall establish Standards of Learning Revision Committees (Committees) for each*
200 *Standards of Learning subject area. Each Committee shall include experts in (i) the Standards of*
201 *Learning subject area; (ii) special student populations, such as English language learners, students with*
202 *disabilities, and gifted students; (iii) curriculum design; (iv) educational assessment; and (v)*
203 *pedagogical subject knowledge research in the Standards of Learning subject area.*

204 *B. Each Committee shall convene at least two years prior to any Board review of the Standard of*
205 *Learning in the relevant subject area pursuant to § 22.1-253.13:1 and receive training in the Standards*
206 *of Learning and assessments.*

207 *C. Each Committee shall review the relevant Standard of Learning and:*

208 *1. Recommend to the Board changes to the Standard of Learning that adhere to the criteria*
209 *articulated in Handbook for the Development of Performance Standards: Meeting the Requirements of*
210 *Title I (Hansche & Hambleton (1998)) and other resources, such as Implementing Standards-Based*
211 *Mathematics Instruction: A Casebook for Professional Development, Second Edition (Smith et al.*
212 *(2000)) by including the most significant knowledge and skills of the subject area, the big ideas of the*
213 *subject area as defined by national content organizations, and natural points of integration of science*
214 *and history and social science standards with revised English and mathematics standards, as applicable;*

215 *2. Work towards creating a multiple-assessment based system in which the Commonwealth articulates*
216 *the Standards of Learning and the local school divisions articulate aligned curricular building blocks;*

217 *3. Develop and update a plan for an aligned Standards of Learning assessment system that includes*
218 *expectations for assessments at the classroom, school division, and state levels and timelines for*
219 *assessment administration;*

220 *4. Develop and revise achievement descriptions in order to provide the bridge between the revised*
221 *Standards of Learning and the Standards of Learning assessments; and*

222 *5. Develop and update an assessment bank that includes formative and performance-based*
223 *assessments that are aligned to the Standards of Learning and that are used at the local level by*
224 *teachers for diagnostic purposes and planning instruction.*

225 **2. That beginning with the 2014-2015 school year, the Board shall administer the following**
226 **Standards of Learning assessments: (i) reading and mathematics in grades three and four; (ii)**
227 **reading, writing, mathematics, and science in grade five; (iii) reading and mathematics in grade**
228 **six; (iv) reading, mathematics, and civics in grade seven; (v) reading, mathematics, and science in**
229 **grade eight; and (vi) algebra 1, algebra 2, biology, chemistry, reading, writing, United States**
230 **history, world history 1, and world history 2 once each in grades nine through 12. Thereafter, the**
231 **Board may reduce the Standards of Learning assessments administered as long as the number and**
232 **type of assessments meet the minimal requirements established by the federal Elementary and**
233 **Secondary Education Act of 1965, as amended.**

234 **3. That each school board shall annually certify that it has provided instruction to students in**
235 **grades three through five in each Standards of Learning subject area that was not tested during**
236 **the school year.**