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## SENATE BILL NO. 306

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on February 26, 2014)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend and reenact §§ 2.2-2101, as it is currently effective and as it shall become effective, and 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.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2101, as it is currently effective and as it shall become effective, and 22.1-253.13:3 of the Code of Virginia are 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:**

**§ 2.2-2101. (Effective until July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.3; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23-231.25; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23-231.31; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Opportunity Educational Institution Board, who shall be appointed as provided for in § 22.1-27.1; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who shall be appointed as provided for in § 2.2-2669; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-233; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735.

**§ 2.2-2101. (Effective July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

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67 Trustees of the Roanoke Higher Education Authority pursuant to § 23-231.15; to members of the  
68 Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in  
69 § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as  
70 provided for in § 22.1-253.13:10; to members of the Opportunity Educational Institution Board, who  
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72 School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members  
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75 members of the State Executive Council for Comprehensive Services for At-Risk Youth and Families,  
76 who shall be appointed as provided in § 2.2-2648; to members of the Virginia Workforce Council, who  
77 shall be appointed as provided for in § 2.2-2669; to members of the Volunteer Firefighters' and Rescue  
78 Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to  
79 members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-233; to  
80 members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; or to  
81 members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in  
82 § 2.2-2735.

83 **§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state**  
84 **regulations.**

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

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

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

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

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

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

117 B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve  
118 criteria for determining and recognizing educational performance in the Commonwealth's public school  
119 divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation  
120 process and shall include student outcome measurements. The Superintendent of Public Instruction shall  
121 annually identify to the Board those school divisions and schools that exceed or do not meet the

122 approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public  
123 education programs in the various school divisions in Virginia and recommendations to the General  
124 Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing  
125 educational performance in the school divisions, the Board shall include consideration of special school  
126 division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and  
127 International Baccalaureate courses, and participation in academic year Governor's Schools.

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

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

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

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

153 The Board shall include in the student outcome measures that are required by the Standards for  
154 Accreditation end-of-course or end-of-grade tests assessments for various grade levels and classes, as  
155 determined by the Board including the completion of the alternative assessments implemented by each  
156 local school board, in accordance with the Standards of Learning. These Standards of Learning  
157 assessments shall include, but need not be limited to, end-of-course or end-of-grade tests for English,  
158 mathematics, science, and history and social science.

159 *The Standards of Learning assessments administered to students in grades three through eight shall*  
160 *not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science*  
161 *in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, mathematics,*  
162 *and science in grade eight; and (e) Virginia Studies and Civics and Economics once each at the grade*  
163 *levels deemed appropriate by each local school board.*

164 *Each school board shall annually certify that it has provided instruction and administered an*  
165 *alternative assessment, consistent with Board guidelines, to students in grades three through eight in*  
166 *each Standards of Learning subject area in which a Standards of Learning assessment was not*  
167 *administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate,*  
168 *authentic performance assessments and portfolios with rubrics and other methodologies designed to*  
169 *ensure that students are making adequate academic progress in the subject area and that the Standards*  
170 *of Learning content is being taught; (2) permit and encourage integrated assessments that include*  
171 *multiple subject areas; and (3) emphasize collaboration between teachers to administer and substantiate*  
172 *the assessments and the professional development of teachers to enable them to make the best use of*  
173 *alternative assessments.*

174 Local school divisions shall provide targeted mathematics remediation and intervention to students in  
175 grades six through eight who show computational deficiencies as demonstrated by their individual  
176 performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures  
177 non-calculator computational skills.

178 In addition, to assess the educational progress of students, the Board of Education shall ~~(a)~~ (A)  
179 develop appropriate assessments, which may include criterion-referenced tests and ~~alternative~~ other  
180 assessment instruments that may be used by classroom teachers; ~~(b)~~ (B) select appropriate industry  
181 certification and state licensure examinations; and ~~(c)~~ (C) prescribe and provide measures, which may  
182 include nationally normed tests to be used to identify students who score in the bottom quartile at

183 selected grade levels. An annual justification that includes evidence that the student meets the  
184 participation criteria defined by the Virginia Department of Education shall be provided for each student  
185 considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall  
186 review such justification and make the final determination as to whether or not the Virginia Grade Level  
187 Alternative is appropriate for the student. The superintendent and the school board chairman shall certify  
188 to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is  
189 a justification in the Individual Education Program for every student who takes the Virginia Grade Level  
190 Alternative. Compliance with this requirement shall be monitored as a part of the special education  
191 monitoring process conducted by the Department of Education. The Board shall report to the Governor  
192 and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in  
193 compliance with this requirement.

194 The Standards of Learning requirements, including all related assessments, shall be waived for any  
195 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
196 § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED)  
197 certificate or in an adult basic education program to obtain the high school diploma.

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

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

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

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

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

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

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

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

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

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

259 H. Any school board may request the Board of Education for release from state regulations or, on  
 260 behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the  
 261 evaluation of the performance of one or more of its schools as authorized for certain other schools by  
 262 the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.  
 263 Waivers of regulatory requirements may be granted by the Board of Education based on submission of a  
 264 request from the division superintendent and chairman of the local school board. The Board of  
 265 Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i)  
 266 mandated by state or federal law or (ii) designed to promote health or safety. The school board shall  
 267 provide in its waiver request a description of how the releases from state regulations are designed to  
 268 increase the quality of instruction and improve the achievement of students in the affected school or  
 269 schools. The Department of Education shall provide (a) guidance to any local school division that  
 270 requests releases from state regulations and (b) information about opportunities to form partnerships with  
 271 other agencies or entities to any local school division in which the school or schools granted releases  
 272 from state regulations have demonstrated improvement in the quality of instruction and the achievement  
 273 of students.

274 The Board of Education may also grant local school boards waivers of specific requirements in  
 275 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the  
 276 local school board, permitting the local school board to assign instructional personnel to the schools with  
 277 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide  
 278 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size  
 279 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its  
 280 request a description of how the waivers from specific Standards of Quality staffing standards are  
 281 designed to increase the quality of instruction and improve the achievement of students in the affected  
 282 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on  
 283 student achievement results in the affected school or schools.

284 **§ 22.1-253.13:10. Standards of Learning Innovation Committee.**

285 *The Secretary of Education, upon receiving recommendations for appointments from the Virginia*  
 286 *Parent Teacher Association, Virginia Education Association, Virginia School Boards Association,*  
 287 *Virginia Association of Secondary School Principals, Virginia Association of Elementary School*  
 288 *Principals, Virginia Association of School Superintendents, Virginia State Reading Association, Virginia*  
 289 *School Counselor Association, and Virginia Association for Supervision and Curriculum Development,*  
 290 *shall establish and appoint members from each of the specified groups to the Standards of Learning*  
 291 *Innovation Committee (Committee). The Committee shall also include (i) three members of the Virginia*  
 292 *House of Delegates, appointed by the Speaker of the House of Delegates, (ii) three members of the*  
 293 *Virginia Senate, appointed by the Senate Committee on Rules on the recommendation of the Chair of*  
 294 *the Senate Committee on Education and Health; at least one (iii) parent of a currently enrolled public*  
 295 *school student, (iv) public elementary school teacher, (v) public secondary school teacher, (vi) public*  
 296 *secondary school guidance counselor, (vii) school board member, (viii) public school principal, (ix)*  
 297 *division superintendent, (x) curriculum and instruction specialist, (xi) higher education faculty member,*  
 298 *(xii) business representative, and such other stakeholders as the Secretary deems appropriate. Members*  
 299 *of the Committee should reflect geographic diversity and rural and urban school systems as far as*  
 300 *practicable. The Superintendent of Public Instruction, the President of the Board of Education or his*  
 301 *designee, and the Secretary of Education or his designee shall serve ex officio. All other members shall*  
 302 *be appointed for terms of two years. The Committee, under the direction of the Secretary, shall*  
 303 *periodically make recommendations to the Board of Education and the General Assembly on (a) the*  
 304 *Standards of Learning assessments, (b) authentic individual student growth measures, (c) alignment*  
 305 *between the Standards of Learning and assessments and the School Performance Report Card, and (d)*

306 *ideas on innovative teaching in the classroom.*

307 **2. That the Board may reduce the number of Standards of Learning assessments administered to**  
308 **students as long as the number and type of assessments meet the minimal requirements established**  
309 **by the federal Elementary and Secondary Education Act of 1965, as amended.**