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**HOUSE BILL NO. 1684**

Offered January 14, 2015

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*A BILL to amend and reenact §§ 22.1-253.13:3 and 22.1-253.13:4 of the Code of Virginia, relating to Standards of Learning Assessments; waivers.*

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Patrons—Surovell and Ward

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Referred to Committee on Education**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-253.13:3 and 22.1-253.13:4 of the Code of Virginia are amended and reenacted 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 process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually identify to the Board those school divisions and schools that exceed or do not meet the approved criteria. Such identification shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of

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

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

71 The Board shall also provide the option of industry certification and state licensure examinations as a  
72 student-selected verified credit.

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

78 The Board shall include in the student outcome measures that are required by the Standards for  
79 Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including  
80 the completion of the alternative assessments implemented by each local school board, in accordance  
81 with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for  
82 English, mathematics, science, and history and social science.

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

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

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

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

118 The Standards of Learning requirements, including all related assessments, shall be waived for any  
119 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
120 § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination

approved by the Board of Education or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

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.

*Except in the case of Standards of Learning assessments that are required for the purpose of state or federal accountability, the Board of Education shall waive the Standards of Learning assessment requirements for high school students who have taken an Advanced Placement or International Baccalaureate examination in the same subject area.*

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, including computer-adaptive Standards of Learning 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, alternative 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 students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative 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

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

187 H. Any school board may request the Board of Education for release from state regulations or, on  
188 behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the  
189 evaluation of the performance of one or more of its schools as authorized for certain other schools by  
190 the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.  
191 Waivers of regulatory requirements may be granted by the Board of Education based on submission of a  
192 request from the division superintendent and chairman of the local school board. The Board of  
193 Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i)  
194 mandated by state or federal law or (ii) designed to promote health or safety. The school board shall  
195 provide in its waiver request a description of how the releases from state regulations are designed to  
196 increase the quality of instruction and improve the achievement of students in the affected school or  
197 schools. The Department of Education shall provide (a) guidance to any local school division that  
198 requests releases from state regulations and (b) information about opportunities to form partnerships with  
199 other agencies or entities to any local school division in which the school or schools granted releases  
200 from state regulations have demonstrated improvement in the quality of instruction and the achievement  
201 of students.

202 The Board of Education may also grant local school boards waivers of specific requirements in  
203 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the  
204 local school board, permitting the local school board to assign instructional personnel to the schools with  
205 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide  
206 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size  
207 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its  
208 request a description of how the waivers from specific Standards of Quality staffing standards are  
209 designed to increase the quality of instruction and improve the achievement of students in the affected  
210 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on  
211 student achievement results in the affected school or schools.

212 **§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

213 A. Each local school board shall award diplomas to all secondary school students, including students  
214 who transfer from nonpublic schools or from home instruction, who earn the units of credit prescribed  
215 by the Board of Education, pass the prescribed tests, and meet such other requirements as may be  
216 prescribed by the local school board and approved by the Board of Education. Provisions shall be made  
217 to facilitate the transfer and appropriate grade placement of students from other public secondary  
218 schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation.  
219 Course credits earned for online courses taken in the Department of Education's Virtual Virginia  
220 program shall transfer to Virginia public schools in accordance with provisions of the standards for  
221 accreditation. Further, reasonable accommodation to meet the requirements for diplomas shall be  
222 provided for otherwise qualified students with disabilities as needed.

223 In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school  
224 students, a mechanism for calculating class rankings that takes into consideration whether the student has  
225 taken a required class more than one time and has had any prior earned grade for such required class  
226 expunged.

227 Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i)  
228 the number and subject area requirements of standard and verified units of credit required for graduation  
229 pursuant to the standards for accreditation and (ii) the remaining number and subject area requirements  
230 of such units of credit the individual student requires for graduation.

231 B. Students identified as disabled who complete the requirements of their individualized education  
232 programs shall be awarded special diplomas by local school boards.

233 Each local school board shall notify the parent of such students with disabilities who have an  
234 individualized education program and who fail to meet the requirements for a standard or advanced  
235 studies diploma of the student's right to a free and appropriate education to age 21, inclusive, pursuant  
236 to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

237 C. Students who have completed a prescribed course of study as defined by the local school board  
238 shall be awarded certificates of program completion by local school boards if they are not eligible to  
239 receive a Board of Education-approved diploma.

240 Each local school board shall provide notification of the right to a free public education for students  
241 who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1  
242 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve the  
243 number of verified units of credit required for graduation as provided in the standards for accreditation.

If such student who does not graduate or achieve such verified units of credit is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. In establishing course and credit requirements for a high school diploma, the Board shall:

1. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation credit requirements, which shall include Standards of Learning testing, as necessary.

2. Establish the requirements for a standard and an advanced studies high school diploma, which shall each include at least one credit in fine or performing arts or career and technical education and one credit in United States and Virginia history. The requirements for a standard high school diploma shall, however, include at least two sequential electives chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses. Such focused sequence of elective courses shall provide a foundation for further education or training or preparation for employment. The advanced studies diploma shall be the recommended diploma for students pursuing baccalaureate study. Both the standard and the advanced studies diploma shall prepare students for post-secondary education and the career readiness required by the Commonwealth's economy.

Beginning with first-time ninth grade students in the 2013-2014 school year, requirements for the standard diploma shall include a requirement to earn a career and technical education credential that has been approved by the Board, that could include, but not be limited to, the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.

Beginning with first-time ninth grade students in the 2016-2017 school year, requirements for the standard and advanced diplomas shall include a requirement to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

The Board shall make provision in its regulations for students with disabilities to earn a standard diploma.

3. Provide, in the requirements to earn a standard or advanced studies diploma, the successful completion of one virtual course. The virtual course may be a noncredit-bearing course.

4. Provide, in the requirements for the verified units of credit stipulated for obtaining the standard or advanced studies diploma, that students completing elective classes into which the Standards of Learning for any required course have been integrated may take the relevant Standards of Learning test for the relevant required course and receive, upon achieving a satisfactory score on the specific Standards of Learning assessment, a verified unit of credit for such elective class that shall be deemed to satisfy the Board's requirement for verified credit for the required course.

5. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstration of mastery of the course content and objectives. Having received credit for the course, the student shall be permitted to sit for the relevant Standards of Learning assessment and, upon receiving a passing score, shall earn a verified credit. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

6. Provide for the award of verified units of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding verified units of credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, the appropriate verified units of credit for one or more career and technical education classes into which

305 relevant Standards of Learning for various classes taught at the same level have been integrated. Such  
306 industry certification and state licensure examinations may cover relevant Standards of Learning for  
307 various required classes and may, at the discretion of the Board, address some Standards of Learning for  
308 several required classes.

309 7. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at  
310 the request of a local school board. Such waivers shall be granted only for good cause and shall be  
311 considered on a case-by-case basis.

312 8. Consider all computer science course credits earned by students to be science course credits,  
313 mathematics course credits, or career and technical education credits. The Board of Education shall  
314 develop guidelines addressing how computer science courses can satisfy graduation requirements.

315 9. *Provide for the award of verified units of credit to high school students who have achieved a*  
316 *satisfactory score on an Advanced Placement or International Baccalaureate examination in lieu of a*  
317 *Standards of Learning assessment in the same subject area.*

318 E. In the exercise of its authority to recognize exemplary academic performance by providing for  
319 diploma seals, the Board of Education shall develop criteria for recognizing exemplary performance in  
320 career and technical education programs by students who have completed the requirements for a Board  
321 of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

322 In addition, the Board shall establish criteria for awarding a diploma seal for advanced mathematics  
323 and technology for the Board of Education-approved diplomas. The Board shall consider including  
324 criteria for (i) technology courses; (ii) technical writing, reading, and oral communication skills; (iii)  
325 technology-related training; and (iv) industry, professional, and trade association national certifications.

326 The Board shall also establish criteria for awarding a diploma seal for excellence in civics education  
327 and understanding of our state and federal constitutions and the democratic model of government for the  
328 Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful  
329 completion of history, government, and civics courses, including courses that incorporate character  
330 education; (ii) voluntary participation in community service or extracurricular activities that includes the  
331 types of activities that shall qualify as community service and the number of hours required; and (iii)  
332 related requirements as it deems appropriate.

333 F. The Board shall establish, by regulation, requirements for the award of a general achievement  
334 adult high school diploma for those persons who are not subject to the compulsory school attendance  
335 requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency  
336 examination approved by the Board of Education; (ii) successfully completed an education and training  
337 program designated by the Board of Education; (iii) earned a Board of Education-approved career and  
338 technical education credential such as the successful completion of an industry certification, a state  
339 licensure examination, a national occupational competency assessment, or the Virginia workplace  
340 readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for  
341 the award of such diploma.

342 G. To ensure the uniform assessment of high school graduation rates, the Board shall collect,  
343 analyze, and report high school graduation and dropout data using a formula prescribed by the Board.

344 The Board may promulgate such regulations as may be necessary and appropriate for the collection,  
345 analysis, and reporting of such data.