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SENATE BILL NO. 1116

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to the Standards of Learning; alternative assessment for certain students.

Patrons—Barker and Ebbin; Delegate: Ward

Referred to Committee on Education and Health

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, 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 action plans for increasing educational performance in those school divisions and schools that are

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

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

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

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

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

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

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

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

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

119 The Standards of Learning requirements, including all related assessments, shall be waived for any
120 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to

121 § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination
122 approved by the Board of Education or in an adult basic education program or an adult secondary
123 education program to obtain the high school diploma or a high school equivalency certificate.

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

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

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

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

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

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

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

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

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

178 G. Each local school division superintendent shall regularly review the division's submission of data
179 and reports required by state and federal law and regulations to ensure that all information is accurate
180 and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the
181 required reports and data to division superintendents annually. The status of compliance with this

182 requirement shall be included in the Board of Education's annual report to the Governor and the General
183 Assembly as required by § 22.1-18.

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

199 The Board of Education may also grant local school boards waivers of specific requirements in
200 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the
201 local school board, permitting the local school board to assign instructional personnel to the schools with
202 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide
203 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size
204 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its
205 request a description of how the waivers from specific Standards of Quality staffing standards are
206 designed to increase the quality of instruction and improve the achievement of students in the affected
207 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on
208 student achievement results in the affected school or schools.