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HOUSE BILL NO. 436**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Education
on February 10, 2016)

(Patron Prior to Substitute—Delegate Austin)

A BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to Standards of Learning assessments in English reading and mathematics; retake; recovery credit.

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. However, the Board may review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board may accredit the school for another three years. The Board shall review the accreditation status of any school that (i) in any individual year within the triennial review period would have failed to achieve full accreditation or (ii) in the previous year has had an adjustment of its boundaries by a school board pursuant to subdivision 4 of § 22.1-79 that affects at least 10 percent of the student population of the school.

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

60 Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing
61 educational performance in the school divisions, the Board shall include consideration of special school
62 division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and
63 International Baccalaureate courses, and participation in academic year Governor's Schools.

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

69 C. With such funds as are available for this purpose, the Board of Education shall prescribe
70 assessment methods to determine the level of achievement of the Standards of Learning objectives by all
71 students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and
72 skills related to the Standards of Learning being assessed. The Board shall, with the assistance of
73 independent testing experts, conduct a regular analysis and validation process for these assessments. The
74 Department of Education shall make available to school divisions Standards of Learning assessments
75 typically administered by the middle and high schools by December 1 of the school year in which such
76 assessments are to be administered or when newly developed assessments are available, whichever is
77 later.

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

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

85 The Board shall include in the student outcome measures that are required by the Standards for
86 Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including
87 the completion of the alternative assessments implemented by each local school board, in accordance
88 with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for
89 English, mathematics, science, and history and social science and may be integrated to include multiple
90 subject areas.

91 The Standards of Learning assessments administered to students in grades three through eight shall
92 not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science
93 in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and
94 mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life
95 science, and physical science Standards of Learning and before the student completes grade eight; and
96 (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each
97 local school board.

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

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

112 *The Department of Education shall award recovery credit to any student in grades three through*
113 *eight who fails a Standards of Learning assessment in English reading or mathematics, receives*
114 *remediation, and subsequently retakes and passes such an assessment, including any such student who*
115 *subsequently retakes such an assessment on an expedited basis.*

116 In addition, to assess the educational progress of students, the Board of Education shall (A) develop
117 appropriate assessments, which may include criterion-referenced tests and other assessment instruments
118 that may be used by classroom teachers; (B) select appropriate industry certification and state licensure
119 examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be
120 used to identify students who score in the bottom quartile at selected grade levels. An annual
121 justification that includes evidence that the student meets the participation criteria defined by the

Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 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 Department of Education shall develop processes for informing school divisions of changes in the Standards of Learning.

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, 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

183 requirements for home instruction pursuant to § 22.1-254.1.

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

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

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

213 The Board of Education may also grant local school boards waivers of specific requirements in
214 § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the
215 local school board, permitting the local school board to assign instructional personnel to the schools with
216 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide
217 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size
218 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its
219 request a description of how the waivers from specific Standards of Quality staffing standards are
220 designed to increase the quality of instruction and improve the achievement of students in the affected
221 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on
222 student achievement results in the affected school or schools.