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HOUSE BILL NO. 2043

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend and reenact § 22.1-304 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.3, consisting of sections numbered 22.1-212.17 through 22.1-212.29, relating to the Virginia Scholarship and Tutorial Assistance Program.

Patrons—Marshall, R.G. and Black

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-304 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.3, consisting of sections numbered 22.1-212.17 through 22.1-212.29 as follows:

Article 1.3.

Virginia Scholarship and Tutorial Assistance Program.

§ 22.1-212.17. Virginia Scholarship and Tutorial Assistance Grants Program established; promulgation of regulations.

A. From such funds as may be appropriated for this purpose, there is hereby established the Virginia Scholarship and Tutorial Assistance Grants Program, hereinafter referred to as the "Program," to provide state-funded scholarships to parents of low-income students in the Commonwealth that may be used by such parents to (i) pay the costs of tuition for eligible students in kindergarten through grade 8 attending an accredited public school in an adjacent school division or a participating private school in the school division where the student resides or in a school division adjacent thereto, or (ii) purchase tutorial assistance for eligible students who remain in the public schools, to assist the parents of such students in obtaining high quality education. The Board shall allocate appropriations for the Program equally so that one-half shall be designated for scholarships and one-half shall be designated for tutorial assistance grants.

B. The Board of Education, in consultation with the Office of the Attorney General, shall promulgate regulations governing the Program that comply with state and federal constitutional principles. The regulations shall include, but not be limited to, (i) a process for implementing the program in 2 phases to provide scholarships and tutorial assistance grants to parents of eligible students in grades 4 through 8 in the first year, and to eligible students in grades kindergarten through 3 in the second year; (ii) an application process for scholarships and grants for tutorial assistance; (iii) criteria for determining the eligibility of parents based on family income; (iv) eligibility requirements for participating private schools; (v) a procedure for determining the number of eligible students that may participate each year based on funds appropriated for the Program; (vi) criteria for approving the qualifications of tutorial assistance services providers; (vii) a process for evaluating the Program, student academic progress, participating private schools, and approved tutorial assistance services providers by an independent research entity; (viii) a database to track eligible students attending accredited public schools and participating private schools in adjacent school divisions, and eligible students receiving tutorial assistance services; (ix) model guidelines to assist school divisions in developing policies and procedures regarding the admission, assignment, and accounting of students transferring to accredited public schools from adjacent school divisions; (x) a procedure for rescinding scholarships and grants, and revoking the approval of participating private schools and tutorial assistance providers for failure to comply with Board regulations governing the Program; and (xi) such other requirements as may be necessary for the full implementation of the Program.

C. The Board of Education shall establish procedures to ensure compliance with the provisions of this article.

§ 22.1-212.18. Definitions.

As used in this article:

"Adjacent school division" means the adjoining school division with which geographical borders are shared between 2 or more school divisions.

"Eligible student" means a child whose annual family income is at or below 200 percent of the federal poverty level, and who is enrolled in, attending, or assigned to a public school accredited with warning in any subject area for 2 consecutive years, or whose accreditation has been denied.

"Participating private school" means a nonsectarian private school in the Commonwealth accredited

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59 by a national or regional accrediting agency recognized by the United States Department of Education,
60 or by a state approval process, that is in compliance with the provisions of §§ 22.1-212.22 and
61 22.1-212.23 and Board regulations governing the Program, and has entered into a written agreement
62 with the Board to participate in the Program.

63 "Tutorial assistance" means instructional services designed to improve, maintain, or accelerate a
64 student's academic achievement, or to remediate students whose scores are in the bottom national
65 quartile on Virginia State Assessment Program Tests, or who fail to achieve a passing score on any
66 Standards of Learning assessment in grades 3, 5, and 8, and any Standards of Learning end-of-course
67 tests.

68 "Tutorial assistance services provider" means a company or corporation licensed to conduct business
69 in the Commonwealth and approved by the Board of Education to provide instructional services to a
70 student outside of regular school hours, or a person approved by the Board to provide such services to
71 students outside of regular school hours.

72 § 22.1-212.19. Scholarship assistance; implementation; apportionment of costs; eligibility criteria.

73 A. Effective on July 1, 2004, the parent of a student enrolled in grades kindergarten through 8,
74 whose annual family income is at or below 200 percent of the federal poverty level, shall be eligible for
75 state-funded scholarships to pay the costs of tuition at an accredited public school in an adjacent school
76 division or a participating private school in the relevant or an adjacent school division.

77 B. The Program shall be implemented in 2 phases. In the first year of the Program, scholarships
78 shall be awarded to parents of eligible students in grades 4 through 8. In the second year of the
79 Program and each year thereafter, scholarships shall be awarded only to parents of eligible students
80 enrolled in grades kindergarten through 3; however, any student who has received a scholarship in the
81 preceding year shall be eligible to receive a scholarship each year until the student completes grade 8,
82 or until the parent of such student reenrolls him in an accredited public school in the school division
83 where he resides.

84 C. A parent whose annual family income is at 200 percent of the federal poverty level shall be
85 eligible for 75 percent of the scholarship amount. A parent whose annual family income is below 200
86 percent of the federal poverty level shall be eligible for 90 percent of the scholarship amount. Such
87 percentages of the scholarships, as applicable, shall be paid from state funds. The remaining 25 percent
88 and 10 percent, respectively, shall be paid by the school division in which the eligible student resides.

89 D. The Board shall award only as many scholarships as appropriations for the Program will allow.
90 For each scholarship awarded as provided in this article, the Board shall deduct from the amount
91 payable by the Board from the basic school aid fund to the relevant school division an amount equal to
92 either 75 percent or 90 percent, as applicable, of the required expenditure per pupil as set forth in the
93 appropriation act for the relevant school division. The scholarship amount may be increased for
94 students enrolled in special education programs; however, the increase shall not exceed the proportional
95 amount of state and federal funds appropriated for the student's disability. No scholarship shall be
96 distributed until evidence of enrollment or admission of the eligible student has been received by the
97 Board.

98 § 22.1-212.20. Tutorial Assistance Grants; implementation; eligibility criteria.

99 A. Effective on July 1, 2004, tutorial assistance grants shall be awarded only to parents of eligible
100 students in grades kindergarten through 8 attending the public schools. Any parent who receives a
101 tutorial assistance grant in the first year of the Program shall continue to receive a grant each year
102 thereafter, if the student remains enrolled in a public school accredited with warning or whose
103 accreditation is denied, until the student completes grade 8.

104 B. Tutorial assistance grants shall be used solely to purchase tutorial assistance from a provider of
105 such services approved by the Board. Tutorial assistance shall be provided to a student outside regular
106 school hours.

107 C. A parent whose annual family income is at 200 percent of the federal poverty level shall be
108 eligible for 75 percent of the tutorial assistance grant. A parent whose annual family income is below
109 200 percent of the federal poverty level shall be eligible for 90 percent of the tutorial assistance grant.
110 Such percentages of the grants, as applicable, shall be paid from state funds. The remaining 25 percent
111 and 10 percent, respectively, shall be paid by the school division in which the eligible student resides.

112 D. The Board shall award only as many tutorial assistance grants as appropriations for the Program
113 will allow. The tutorial assistance grant awarded a parent of an eligible student shall not exceed the
114 costs of such services as prescribed by the Board, or 20 percent of the relevant school division's
115 average scholarship award, whichever is less.

116 § 22.1-212.21. Duties of Department of Education; notice of availability of scholarships and tutorial
117 assistance grants; determination of parent eligibility for scholarships and grants.

118 A. On and after July 1, 2003, the Department shall make information regarding the Program, its
119 purpose, eligibility criteria, and required forms for participation in the Program available to school
120 divisions for dissemination to parents of students enrolled in the public schools, and to private schools

and entities licensed in the Commonwealth to provide tutorial assistance services. The Department shall also disseminate such information among public libraries and post the information to its website.

B. Beginning on December 1, 2003, and each year thereafter, based on the number of students whose annual family income was at or below 200 percent of the federal poverty level during the previous school year and adjusted for any projected increase or decrease in the number of such students for the ensuing school year, the Department of Education shall notify each school board of the projected number of scholarships and tutorial assistance grants by grade level that have been allocated to it for eligible students in grades kindergarten through 8.

C. The Department shall also determine whether a parent qualifies for 75 percent or 90 percent of the scholarship or grant amount and provide written notice to the parent of the student regarding the amount of the scholarship or grant that has been approved. Students whose family income is at 200 percent of the federal poverty income level shall qualify for 75 percent of the scholarship or grant amount and students whose family income is below 200 percent of the federal poverty income level shall qualify for 90 percent of the scholarship or grant amount.

§ 22.1-212.22. Responsibilities of school boards; discontinuance of Program.

A. A school board shall provide 25 percent or 10 percent, as applicable, of the amount specified for each scholarship or tutorial assistance grant awarded to parents of eligible students in the school division.

B. If the Program is discontinued or not funded in any year after a parent awarded a scholarship has enrolled an eligible student in an accredited public school or participating private school or has purchased tutorial assistance services, the student shall be entitled to continued enrollment at the school and continued tutorial assistance services, under the same conditions as when enrolled as a participant in the Program, until the student completes grade 8 or the parent reenrolls the student in an accredited public school in the school division where he resides. The tuition charged the parent of such student shall not exceed the sum of the scholarship and any school fees charged the parent for the school year in which the Program was discontinued or last funded. The costs of tutorial assistance services charged the parent of such student shall not exceed the costs prescribed by the Board or 20 percent of the relevant school division's average scholarship award, whichever is less, for the school year in which the Program was discontinued or last funded.

C. If the student enrollment in any school division decreases due to the participation of students in the Program, the school board may reduce the number of teachers in accordance with subdivision E of § 22.1-304; however, for the purposes of this subsection only, a school board may provide severance pay or early retirement incentives to any teacher whose contract has been terminated.

§ 22.1-212.23. Eligibility and responsibilities of participating private schools.

A. A participating private school shall be accredited by a national or regional accrediting agency recognized by the United States Department of Education, or by a state approval process, and meet the following conditions:

1. The school is located within the school division in which the eligible student resides or is adjacent thereto;

2. The school complies with Board regulations governing the Program and has entered into a written agreement with the Board to participate in the Program;

3. The school complies with the provisions of subsection B of § 22.1-212.22.

4. The school meets all state minimum standards for chartered public schools and local building and safety ordinances in effect on July 1, 2003;

5. The school notifies the division superintendent of the school division in which the student resides and is currently enrolled and the Department of Education of the student's admission to the school on such forms as the division superintendent or the Department may require;

6. The school does not discriminate on the basis of race, religion, or ethnic background;

7. The school enrolls a minimum of 10 students per class or a total of at least 100 students in all the classes offered;

8. The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

9. The school does not provide false or misleading information about the school to parents, students, or the public;

10. The school agrees not to charge tuition to parents awarded scholarships for eligible students in excess of 10 percent of the scholarship amount, excluding any increase allowed for special education services pursuant to subsection D of § 22.1-212.19. The school agrees to permit the costs exceeding the scholarship amount to be satisfied, at the discretion of the parent, through in-kind services or other nonmonetary contributions; and

11. The administrator of the school submits a school profile annually, to provide parents information concerning (i) the school's history and mission statement; (ii) qualifications of instructional,

182 administrative, and supervisory staff; (iii) the grade levels offered; (iv) the school's enrollment data,
183 including a demographic description of the student body; (v) costs of tuition and fees; (vi) required
184 student assessments and the results of such assessments for the preceding school year; (vii) any
185 organizational affiliations; and (viii) such other information as the Department may require.

186 B. The Board of Education may revoke the approval of any participating private school if, after a
187 hearing of the Board, it is determined that the school is in violation of any provision of the Board's
188 regulations governing the Program.

189 § 22.1-212.24. Priorities for admission of participating students to participating private schools;
190 replacement of accepted student.

191 A. Each participating private school shall admit eligible students whose parents have been awarded
192 a scholarship, pursuant to § 22.1-212.19, to grades kindergarten through 8, as appropriate, to the extent
193 that space permits, in accordance with the following priorities:

194 1. In the first year of the Program, eligible students enrolled in grades 4 through 8;

195 2. In the second and subsequent years of the Program, eligible students enrolled in grades
196 kindergarten through 3;

197 3. Eligible students who were enrolled in the school during the preceding year; and

198 4. Siblings of eligible students enrolled in the school during the preceding year, at the discretion of
199 the school.

200 Any remaining spaces for eligible students in grades kindergarten through 8 shall be filled as
201 determined by the school.

202 B. A participating private school may admit eligible students in accordance with the admission
203 requirements of the school, provided that the requirements are applied equally to all applicants.

204 C. Notwithstanding §§ 22.1-212.23 and 22.1-212.24, except as otherwise prohibited by federal law, a
205 participating private school that provides single-gender educational programs shall not be required to
206 admit students of the opposite gender, or disabled students whose Individualized Education Plan (I.E.P.)
207 does not permit the student to be mainstreamed in educational programs and classes for nondisabled
208 students.

209 D. If an eligible student who has been accepted in accordance with this section fails to enroll or
210 withdraws from the school during the school year for any reason, the school may fill the vacancy
211 created by such student with another eligible student whose application for admission was submitted by
212 the deadline but was not accepted due to space limitations.

213 § 22.1-212.25. Responsibilities of parents of eligible students.

214 A. A parent of an eligible student to whom a scholarship is awarded shall (i) use the scholarship at
215 an accredited public school in an adjacent school division, if space permits, (ii) submit an application
216 for admission or enrollment to the division superintendent of the adjacent school division in which he
217 seeks to enroll the student, and (iii) provide written notice to the division superintendent of the school
218 division where the student resides and is currently enrolled of the student's admission or enrollment in
219 an accredited public school in an adjacent school division. The notice shall be submitted on such forms
220 as the respective division superintendents may require, and shall include, but not be limited to, the
221 parent's and student's name and address, the name and location of the school, the grade level in which
222 the student will be enrolled, and the amount of the scholarship.

223 B. A parent of an eligible student awarded a scholarship may use it at a participating private school
224 in the school division where the student resides or in an adjacent school division, if the following
225 conditions are met:

226 1. The parent makes application on behalf of the student to a participating private school in
227 accordance with the school's admission policies in the year immediately preceding the school year in
228 which admission is requested;

229 2. The participating private school provides written notice of the student's admission to the school to
230 the parent, Department of Education, and division superintendent of the school division in which the
231 student resides and is currently enrolled; and

232 3. The parent enrolls the student in a participating private school to which he has been admitted and
233 agrees to ensure the student's regular school attendance and compliance with school policies.

234 C. Parents of eligible students desiring to purchase tutorial assistance services shall apply for a
235 tutorial assistance grant in the school division where the students reside no later than the first day of
236 the school year in which the assistance will be used.

237 § 22.1-212.26. Payment of scholarships and tutorial assistance grants.

238 The Department of Education shall establish a schedule for the incremental disbursement of
239 payments for scholarships and grants during the school year. The scholarship or grant shall be payable
240 to the parent of the eligible student. If the parent, after receiving payment in full or of any portion of a
241 scholarship or grant, fails to enroll or withdraws the student from school or fails to purchase or
242 suspends tutorial assistance services, for whatever reason, the scholarship or grant shall be prorated for
243 that part of the school year in which the student was in attendance at school or received tutorial

assistance services, and the Board shall revoke the scholarship or grant.

§ 22.1-212.27. Enrollment of students in specialized programs; adjacent school divisions.

A. Notwithstanding § 22.1-212.17, the provisions of this article shall not apply to public charter schools as provided in § 22.1-212.6, joint and regional schools pursuant to § 22.1-26, alternative education programs, Governor's schools and magnet schools, adult education programs, special education programs, early intervention programs designed to provide educational services for developmentally at-risk infants and children, Head Start programs, or other instructional programs designed to meet the academic needs of certain students through compensatory education programs, unless expressly specified and authorized.

B. School boards may develop policies and procedures governing the admission of eligible students from adjacent school divisions, including procedures to ensure the maintenance of an appropriate racial balance in the schools, in accordance with Board regulations governing the Program. However, policies and procedures for admitting eligible students from adjacent school divisions shall not include:

1. Any requirement of academic ability, or level of athletic, artistic, or other extracurricular skills;
2. Any requirement limiting the admission of disabled students, except as provided in § 22.1-212.24 and this section;
3. Any requirement that the student be proficient in the English language; and
4. Any requirement denying admission to a student who has been subject to disciplinary proceedings, unless the student has been suspended or expelled from school attendance in the school division where he resides and is currently enrolled.

C. Each school board permitting the enrollment of eligible students from adjacent school divisions shall provide information about its policies and procedures adopted in accordance with this article, including the application process and deadlines, to the Department of Education and the school board of each adjacent school division, and, upon request, to the parent of any student in an adjacent school division.

D. A school board shall accept credits toward grade promotion and graduation earned by an eligible student admitted to the public schools from an adjacent school division or reenrolling in the public schools from a participating private school.

1. No school board shall adopt any policy discouraging or prohibiting students enrolled in its public schools from applying for admission or enrollment in an accredited public school in an adjacent school division or a participating private school.

2. A school board may refuse to admit an eligible student from an adjacent school division unless tuition has been paid by the student's parent.

§ 22.1-212.28. Program evaluation.

Beginning on July 1, 2005, and biennially thereafter, the Board of Education shall provide for a comprehensive evaluation of the Program by an independent research entity. The evaluation shall examine the implementation of the Program, and shall include at a minimum: (i) a study of the effect of scholarships on student attendance, student conduct, and the transfer of students from public schools to participating private schools; (ii) the analysis and application of results of student scores on state assessment tests to improve academic performance, parental involvement, the school division's ability to provide educational services to eligible students from adjacent school divisions, and the availability of educational opportunities to such students; (iii) the effect of the Program on the supply and demand for teachers; and (iv) an assessment of the economic impact of the Program on public schools.

§ 22.1-212.29. Construction of article.

A. This article shall not be construed to affect the attendance in any public school of any student who resides in the attendance zone for the relevant school and would be customarily assigned to the relevant school or to authorize the transfer or reassignment of such student so residing because of inadequate space as a result of the enrollment of any students as authorized herein.

B. Nothing herein shall be construed to guarantee payment of the full cost of any school division's or participating private school's tuition on behalf of any student or to guarantee the admission or attendance of any student at any public or participating private school of the parent's choice.

C. This article shall not be construed to require any school board to approve the attendance in its schools of students who do not reside within its boundaries or to authorize the violation by any public or participating private school of any federal or state law.

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within fifteen days of receipt of such notice. Except as provided in § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the contract must be given by the school board on or before April 15 of each year. If no such notice is given a teacher by April 15, the teacher shall be entitled to a contract for the ensuing year

305 in accordance with local salary stipulations including increments.

306 B. Teachers employed after completing the probationary period shall be entitled to continuing
307 contracts during good behavior and competent service and prior to the age at which they are eligible or
308 required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by
309 either party must be given by April 15 of each year; otherwise the contract continues in effect for the
310 ensuing year in conformity with local salary stipulations including increments.

311 C. A teacher may resign after April 15 of any school year with the approval of the local school
312 board or, upon authorization by the school board, with the approval of the division superintendent. The
313 teacher shall request release from contract at least ~~two~~2 weeks in advance of intended date of
314 resignation. Such request shall be in writing and shall set forth the cause of resignation.

315 If the division superintendent has been authorized to approve resignations, a teacher may, within
316 ~~one~~1 week, withdraw a request to resign. Upon the expiration of the ~~one~~1-week period, the division
317 superintendent shall notify the school board of his decision to accept or reject the resignation. The
318 school board, within ~~two~~2 weeks, may reverse the decision of the division superintendent.

319 In the event that the board or the division superintendent declines to grant the request for release on
320 the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary
321 action, which may include revocation of the teacher's license, may be taken pursuant to regulations
322 prescribed by the Board of Education.

323 D. As soon after April 15 as the school budget shall have been approved by the appropriating body,
324 the school board shall furnish each teacher a statement confirming continuation of employment, setting
325 forth assignment and salary.

326 Nothing in the continuing contract shall be construed to authorize the school board to contract for
327 any financial obligation beyond the period for which funds have been made available with which to
328 meet such obligation.

329 E. A school board may reduce the number of teachers, whether or not such teachers have reached
330 continuing contract status, because of decrease in enrollment or abolition of particular subjects, *or*
331 *decrease in enrollment due to student participation in the Virginia Scholarship and Tutorial Assistance*
332 *Program, pursuant to § 22.1-212.17 et seq.*

333 F. (Effective until July 1, 2003) Within ~~two~~2 weeks of the approval of the school budget by the
334 appropriating body, but no later than June 1, school boards shall notify all teachers who may be subject
335 to a reduction in force due to a decrease in the school board's budget as approved by the appropriating
336 body.

337 F. (Effective July 1, 2003) By May 15 of each year, the school board of a county having the county
338 executive form of government that is adjacent to a county having the urban county executive form of
339 government shall notify all teachers who may be subject to a reduction in force due to a decrease in the
340 school board's budget as approved by the appropriating body.