

13104067D

## SENATE BILL NO. 1189

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education  
on January 17, 2013)

(Patron Prior to Substitute—Senator Martin)

A *BILL to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to school boards; releases from state regulation.*

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

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

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

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

80 The Board shall include in the student outcome measures that are required by the Standards for  
81 Accreditation end-of-course or end-of-grade tests for various grade levels and classes, as determined by  
82 the Board, in accordance with the Standards of Learning. These Standards of Learning assessments shall  
83 include, but need not be limited to, end-of-course or end-of-grade tests for English, mathematics,  
84 science, and history and social science.

85 In addition, to assess the educational progress of students, the Board of Education shall (i) develop  
86 appropriate assessments, which may include criterion-referenced tests and alternative assessment  
87 instruments that may be used by classroom teachers; (ii) select appropriate industry certification and  
88 state licensure examinations and (iii) prescribe and provide measures, which may include nationally  
89 normed tests to be used to identify students who score in the bottom quartile at selected grade levels.  
90 An annual justification that includes evidence that the student meets the participation criteria defined by  
91 the Virginia Department of Education shall be provided for each student considered for the Virginia  
92 Grade Level Alternative. Each Individual Education Program team shall review such justification and  
93 make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for  
94 the student. The superintendent and the school board chairman shall certify to the Board of Education,  
95 as a part of certifying compliance with the Standards of Quality, that there is a justification in the  
96 Individual Education Program for every student who takes the Virginia Grade Level Alternative.  
97 Compliance with this requirement shall be monitored as a part of the special education monitoring  
98 process conducted by the Department of Education. The Board shall report to the Governor and General  
99 Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with  
100 this requirement.

101 The Standards of Learning requirements, including all related assessments, shall be waived for any  
102 student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to  
103 § 30-231.2, who is enrolled in a preparation program for the General Education Development (GED)  
104 certificate or in an adult basic education program to obtain the high school diploma.

105 The Board of Education may adopt special provisions related to the administration and use of any  
106 SOL test or tests in a content area as applied to accreditation ratings for any period during which the  
107 SOL content or assessments in that area are being revised and phased in. Prior to statewide  
108 administration of such tests, the Board of Education shall provide notice to local school boards regarding  
109 such special provisions.

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

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

117 Records and other information furnished to or prepared by the Board during the conduct of a review  
118 or investigation may be withheld pursuant to subdivision 12 of § 2.2-3705.3. However, this section shall  
119 not prohibit the disclosure of records to (i) a local school board or division superintendent for the  
120 purpose of permitting such board or superintendent to consider or to take personnel action with regard to  
121 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 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 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 all students for grade levels and courses identified by the Board of Education, which may include criterion-referenced tests, teacher-made tests and alternative assessment instruments and shall include the Standards of Learning 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 and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

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

*The Board of Education may also grant local school boards waivers of specific requirements in §22.1-253.13:2 permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by §22.1-253.13:2. The school board shall demonstrate in its request*

**183** *that the waivers from specific Standards of Quality staffing standards will increase the quality of*  
**184** *instruction and improve the achievement of students in the affected school or schools. The waivers may*  
**185** *be renewed in up to five year increments, or revoked, based on student achievement results in the*  
**186** *affected schools.*