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HOUSE BILL NO. 304

Offered January 12, 2000

A BILL to amend and reenact § 22.1-253.13:1 of the Code of Virginia, as it shall become effective, relating to pupil-teacher ratios and class sizes in kindergarten through grade four.

Patrons—Armstrong, Brink, Day and Jackson; Senator: Reynolds

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:1 of the Code of Virginia, as it shall become effective, is amended and reenacted as follows:

§ 22.1-253.13:1. (Effective July 1, 2000 until July 1, 2003) Standard 1. Basic skills, selected programs, and instructional personnel.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school and preparation for life, and find that the quality of education is dependent upon the provision of the appropriate working environment, benefits, and salaries necessary to ensure the availability of high quality instructional personnel and adequate commitment of other resources.

B. The Board of Education shall establish educational objectives to implement the development of the skills that are necessary for success in school and for preparation for life in the years beyond. The current educational objectives, known as the Standards of Learning, shall not be construed to be regulations as defined in § 9-6.14:4; however, the Board of Education may, from time to time, revise these educational objectives to maintain academic rigor. In order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing new educational objectives. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise these educational objectives in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of these educational objectives.

The Board shall seek to ensure that any revised educational objectives are consistent with the world's highest educational standards. These objectives shall include, but not be limited to, basic skills of communication, computation and critical reasoning including problem solving and decision making and the skills to manage personal finances and to make sound financial decisions, and the development of personal qualities such as self-esteem, sociability, self-management, integrity, and honesty.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for vocational education programs to require the full integration of English, mathematics, science and social studies Standards of Learning. Occupational vocational programs shall be aligned with industry and professional standard certifications, where they exist.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning.

School boards shall implement these objectives or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives utilized by the school division at appropriate age or grade levels.

With such funds as are available for this purpose, the Board of Education may prescribe assessment methods to determine the level of achievement of these objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board, with the assistance of independent testing experts, shall conduct a regular analysis and validation process for these assessments.

By July 1, 1999, the Board shall develop and approve objectives for mathematics, at the middle and high school levels, for personal living and finances, which shall focus on money management skills for individuals and families. The personal living and finances objectives shall require instruction in those skills necessary to handle personal business and finances and shall include, but need not be limited to, the following: opening a bank account and how to judge the quality of a bank's services; balancing a checkbook; completing a loan application; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt

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60 management, including retail and credit card debt; state and federal tax computation; local tax
61 assessments; computation of interest rates by various mechanisms; understanding simple contracts; and
62 how to contest an incorrect bill. These personal living and finances objectives shall not be required to be
63 included in the Board's Standards of Learning, and shall be developed in a manner to ensure that
64 instruction in the Standards of Learning shall not be de-emphasized. The Board shall not be required to
65 evaluate student achievement concerning such objectives in the Standards of Learning Assessment Tests
66 required by § 22.1-253.13:3.

67 C. Local school boards shall develop and implement a program of instruction for grades K through
68 12 which emphasizes reading, writing, speaking, mathematical concepts and computations, technological
69 proficiency, and scientific concepts and processes; essential skills and concepts of citizenship, including
70 knowledge of history, economics, government, foreign languages, international cultures, health and
71 physical education, environmental issues and geography necessary for responsible participation in
72 American society and in the international community; fine arts, which may include, but need not be
73 limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education
74 and employment or, in the case of some handicapped children, to qualify for appropriate training; and
75 development of the ability to apply such skills and knowledge in preparation for eventual employment
76 and lifelong learning. School boards shall strive to employ licensed instructional personnel qualified in
77 the relevant subject areas, including qualified teachers, licensed through the Board of Education's
78 provisional licensure procedures, who have professional expertise in the relevant subject areas.

79 Local school boards shall also develop and implement programs of prevention, intervention, or
80 remediation for students who are educationally at risk including, but not limited to, those whose scores
81 are in the bottom national quartile on Virginia State Assessment Program Tests, who do not pass the
82 literacy tests prescribed by the Board of Education, or who fail to achieve a passing score on any
83 Standards of Learning assessment in grades three, five, and eight. Such programs may include summer
84 school for all elementary and middle school grades and for all high school academic courses, as defined
85 by regulations promulgated by the Board of Education, or other forms of remediation. Division
86 superintendents shall require such students to take special programs of prevention, intervention, or
87 remediation which may include attendance in public summer school programs, in accordance with clause
88 (ii) of subsection A of § 22.1-254 and § 22.1-254.01. The requirement for remediation may, however, be
89 satisfied by the student's attendance in a program of prevention, intervention or remediation which has
90 been selected by his parent and is either (i) conducted by an accredited private school or (ii) a special
91 program which has been determined to be comparable to the required public school remediation program
92 by the division superintendent. The costs of such private school remediation program or other special
93 remediation program shall be borne by the student's parent. Students required to attend such summer
94 school programs or to participate in another form of remediation shall not be charged tuition by the
95 local school division. Based on the number of students attending and the Commonwealth's share of the
96 per pupil costs, additional state funds shall be provided for summer and other remediation programs as
97 set forth in the appropriation act.

98 Any student who does not pass the literacy tests or all Standards of Learning assessments in grades
99 three, five, and eight shall be required to attend a summer school program or participate in another form
100 of remediation. Such summer school program or other form of remediation shall be chosen by the
101 school division to be appropriate to the academic needs of the student. State funds shall be provided, as
102 set forth in the appropriation act, for the attendance in remediation programs conducted by local school
103 divisions for those students who do not pass the literacy tests beginning with the 1997-1998 fiscal year
104 and for students who do not pass all Standards of Learning assessments in grades three, five, and eight
105 beginning with the 1998-1999 fiscal year.

106 To ensure consistency in program quality, each school board may establish a remediation program
107 standards committee which may include, but need not be limited to, the superintendent or his designee,
108 a teacher, a parent, and one representative of the community at large. The remediation program
109 standards committee shall recommend the program components for the remediation programs and shall
110 evaluate the success of the programs. Such program components may include transition mechanisms for
111 children to ensure the smooth movement between remediation programs and regular programs,
112 pupil-teacher ratios, objectives, and time, site, and duration of the various programs.

113 Such remediation programs shall include, when applicable, a procedure for early identification of
114 students who are at risk of failure of the literacy tests or the Standards of Learning assessments in
115 grades three, five, and eight. The identified students shall be provided appropriate remediation activities.

116 The Board of Education shall establish standards for full funding of summer remedial programs
117 which shall include, but not be limited to, the minimum number of instructional hours or the equivalent
118 thereof required for full funding and an assessment system designed to evaluate program effectiveness.
119 Based on the number of students attending and the Commonwealth's share of the per pupil instructional
120 costs, state funds shall be provided for the full cost of summer and other remediation programs as set
121 forth in the appropriation act, provided such programs comply with such standards as shall be

established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through 3 which emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development (GED) certificate. As provided in the appropriation act, state funding, in addition to basic aid, shall be allocated to support programs grounded in sound educational policy to reduce the number of students who drop out of school. From such funds as may be appropriated for this purpose, sufficient funds shall be provided to hold all local school divisions harmless by providing no-loss funding which maintains the level of each school division's funding as allocated for drop-out prevention programs on July 1, 1996, if the level of funding for such school division's drop-out prevention programs would be less than its level of funding for such programs in fiscal year 1995. Effective on and after July 1, 1996, the Board of Education shall develop and implement a funding mechanism to ensure that no school board is penalized in its state funding for drop-out prevention programs for reducing the drop-out rate in its school division.

3. Career education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, the military, career education schools, and the teaching profession, and emphasize the advantages of completing school with marketable skills. School boards may include career exploration opportunities in the middle school grades.

4. Competency-based vocational education programs, which integrate academic outcomes, career guidance and job-seeking skills for all secondary students including those identified as handicapped that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and career guidance. Career guidance shall include employment counseling designed to furnish information on available employment opportunities to all students, including those identified as handicapped, and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subsection.

5. Academic and vocational preparation for students who plan to continue their education beyond secondary school or who plan to enter employment.

6. Early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with state and federal law.

7. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

8. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

9. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

10. A plan to make achievements for students who are educationally at risk a divisionwide priority which shall include procedures for measuring the progress of such students.

11. A plan to notify students and their parents of the availability of advanced placement classes, the International Baccalaureate program, and Academic Year Governor's School Programs, the qualifications for enrolling in such classes and programs, and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations.

E. Each local school board shall employ with state and local basic, special education, gifted, and vocational education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten shall adjust their average daily membership for kindergarten to reflect eighty-five percent of the total kindergarten average daily memberships, as provided in the appropriation act.

F. In addition to the positions supported by basic aid and in support of regular school year remedial programs, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 estimated to score in the bottom national quartile on Virginia State Assessment Program Tests and those who fail the literacy tests or Standards of Learning assessments for grades three, five, and eight prescribed by the Board. State funding for remedial programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards. The Board of Education shall establish criteria for identification of educationally at-risk students, which shall not be construed to be regulations as defined in § 9-6.14:4; however, the Board of Education may,

183 from time to time, revise these identification criteria. In order to provide appropriate opportunity for
184 input from the general public, teachers, and local school boards, the Board of Education shall conduct
185 public hearings prior to establishing or revising such identification criteria. Thirty days prior to
186 conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the
187 hearings to all local school boards and any other persons requesting to be notified of the hearings and
188 publish notice of its intention to establish or revise such identification criteria in the Virginia Register of
189 Regulations. Interested parties shall be given reasonable opportunity to be heard and present information
190 prior to final adoption of any such identification criteria or revisions thereto.

191 G. Licensed instructional personnel shall be assigned by each school board in a manner that produces
192 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,
193 excluding special education teachers, principals, assistant principals, counselors, and librarians, that are
194 not greater than the following ratios: (i) ~~twenty-four~~twenty to one in kindergarten with no class being
195 larger than ~~twenty-nine~~twenty-five students; if the average daily membership in any kindergarten class
196 exceeds ~~twenty-four~~twenty pupils, a full-time teacher's aide shall be assigned to the class; (ii)
197 ~~twenty-four~~twenty to one in ~~grade~~ grades one, two, and three with no class being larger than
198 ~~thirty~~twenty-five students; (iii) ~~twenty-four~~twenty-three to one in ~~grades two and three~~ grade four with
199 no class being larger than ~~thirty~~twenty-eight students; (iv) twenty-five to one in grades ~~four through five~~
200 and six with no class being larger than thirty-five students; and (v) twenty-four to one in English classes
201 in grades six through twelve.

202 Further, pursuant to the appropriation act, school boards may implement in kindergarten through third
203 grade, within certain schools, lower ratios of students in average daily membership to full-time
204 equivalent teaching positions by assigning instructional personnel in a manner that produces ratios of
205 students in average daily membership to full-time equivalent teaching positions, excluding special
206 education teachers, principals, assistant principals, counselors, and librarians, as follows: (i) in schools
207 having high concentrations of at-risk students, eighteen to one; and (ii) in schools having moderate
208 concentrations of at-risk students, twenty to one. For the purposes of this subsection, "schools having
209 high concentrations of at-risk students" and "schools having moderate concentrations of at-risk students"
210 shall be as defined in the appropriation act.

211 In addition, instructional personnel shall be assigned by each school board in a manner that produces
212 schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of
213 twenty-five to one in middle schools and high schools.

214 School boards shall, however, annually, on or before January 1, report to the public the actual
215 pupil-teacher ratios in elementary school classrooms by school for the current school year. Such actual
216 ratios shall include only the teachers who teach the grade and class on a full-time basis and shall
217 exclude resource personnel. School boards shall report pupil-teacher ratios which include resource
218 teachers in the same annual report. Any classes funded through the voluntary kindergarten through third
219 grade at-risk student/lower ratio program shall be identified as such classes. Any classes having waivers
220 to exceed the requirements of this subsection shall also be identified. Schools shall be identified;
221 however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil
222 identities.

223 H. Students enrolled in a public school on a less than full-time basis shall be counted in average
224 daily membership (ADM) in the relevant school division. Students who are either (i) enrolled in a
225 nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in
226 public school on a less than full-time basis in any mathematics, science, English, history, social science,
227 vocational education, fine arts, foreign language, or health education or physical education course shall
228 be counted in the average daily membership (ADM) in the relevant school division on a pro rata basis
229 as provided in the appropriation act. However, no such nonpublic or home school student shall be
230 counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall
231 not include enrollments of such students in any other public school courses.

232 § 22.1-253.13:1. (Effective July 1, 2003) Standard 1. Basic skills, selected programs, and instructional
233 personnel.

234 A. The General Assembly and the Board of Education believe that the fundamental goal of the
235 public schools of this Commonwealth must be to enable each student to develop the skills that are
236 necessary for success in school and preparation for life, and find that the quality of education is
237 dependent upon the provision of the appropriate working environment, benefits, and salaries necessary to
238 ensure the availability of high quality instructional personnel and adequate commitment of other
239 resources.

240 B. The Board of Education shall establish educational objectives to implement the development of
241 the skills that are necessary for success in school and for preparation for life in the years beyond. The
242 current educational objectives, known as the Standards of Learning, shall not be construed to be
243 regulations as defined in § 9-6.14:4; however, the Board of Education may, from time to time, revise
244 these educational objectives to maintain academic rigor. In order to provide appropriate opportunity for

input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing new educational objectives. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise these educational objectives in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of these educational objectives.

The Board shall seek to ensure that any revised educational objectives are consistent with the world's highest educational standards. These objectives shall include, but not be limited to, basic skills of communication, computation and critical reasoning including problem solving and decision making and the skills to manage personal finances and to make sound financial decisions, and the development of personal qualities such as self-esteem, sociability, self-management, integrity, and honesty.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for vocational education programs to require the full integration of English, mathematics, science and social studies Standards of Learning. Occupational vocational programs shall be aligned with industry and professional standard certifications, where they exist.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning.

School boards shall implement these objectives or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives utilized by the school division at appropriate age or grade levels.

With such funds as are available for this purpose, the Board of Education may prescribe assessment methods to determine the level of achievement of these objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board, with the assistance of independent testing experts, shall conduct a regular analysis and validation process for these assessments.

By July 1, 1999, the Board shall develop and approve objectives for mathematics, at the middle and high school levels, for personal living and finances, which shall focus on money management skills for individuals and families. The personal living and finances objectives shall require instruction in those skills necessary to handle personal business and finances and shall include, but need not be limited to, the following: opening a bank account and how to judge the quality of a bank's services; balancing a checkbook; completing a loan application; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt management, including retail and credit card debt; state and federal tax computation; local tax assessments; computation of interest rates by various mechanisms; understanding simple contracts; and how to contest an incorrect bill. These personal living and finances objectives shall not be required to be included in the Board's Standards of Learning, and shall be developed in a manner to ensure that instruction in the Standards of Learning shall not be de-emphasized. The Board shall not be required to evaluate student achievement concerning such objectives in the Standards of Learning Assessment Tests required by § 22.1-253.13:3.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 which emphasizes reading, writing, speaking, mathematical concepts and computations, technological proficiency, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of history, economics, government, foreign languages, international cultures, health and physical education, environmental issues and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education and employment or, in the case of some handicapped children, to qualify for appropriate training; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning. School boards shall strive to employ licensed instructional personnel qualified in the relevant subject areas, including qualified teachers, licensed through the Board of Education's provisional licensure procedures, who have professional expertise in the relevant subject areas.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests, or who fail to achieve a passing score on any Standards of Learning assessment in grades three, five, and eight. Such programs may include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation which may include attendance in public summer school programs, in

accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01. The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation which has been selected by his parent and is either (i) conducted by an accredited private school or (ii) a special program which has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent. Students required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the local school division. Based on the number of students attending and the Commonwealth's share of the per pupil costs, additional state funds shall be provided for summer and other remediation programs as set forth in the appropriation act.

Any student who does not pass all Standards of Learning assessments in grades three, five, and eight shall be required to attend a summer school program or participate in another form of remediation. Such summer school program or other form of remediation shall be chosen by the school division to be appropriate to the academic needs of the student. State funds shall be provided, as set forth in the appropriation act, for the attendance in remediation programs conducted by local school divisions for students who do not pass all Standards of Learning assessments in grades three, five, and eight beginning with the 1998-1999 fiscal year.

To ensure consistency in program quality, each school board may establish a remediation program standards committee which may include, but need not be limited to, the superintendent or his designee, a teacher, a parent, and one representative of the community at large. The remediation program standards committee shall recommend the program components for the remediation programs and shall evaluate the success of the programs. Such program components may include transition mechanisms for children to ensure the smooth movement between remediation programs and regular programs, pupil-teacher ratios, objectives, and time, site, and duration of the various programs.

Such remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of academic failure of the Standards of Learning assessments in grades three, five, and eight. The identified students shall be provided appropriate remediation activities.

The Board of Education shall establish standards for full funding of summer remedial programs which shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through 3 which emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development (GED) certificate. As provided in the appropriation act, state funding, in addition to basic aid, shall be allocated to support programs grounded in sound educational policy to reduce the number of students who drop out of school. From such funds as may be appropriated for this purpose, sufficient funds shall be provided to hold all local school divisions harmless by providing no-loss funding which maintains the level of each school division's funding as allocated for drop-out prevention programs on July 1, 1996, if the level of funding for such school division's drop-out prevention programs would be less than its level of funding for such programs in fiscal year 1995. Effective on and after July 1, 1996, the Board of Education shall develop and implement a funding mechanism to ensure that no school board is penalized in its state funding for drop-out prevention programs for reducing the drop-out rate in its school division.

3. Career education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, the military, career education schools, and the teaching profession, and emphasize the advantages of completing school with marketable skills. School boards may include career exploration opportunities in the middle school grades.

4. Competency-based vocational education programs, which integrate academic outcomes, career guidance and job-seeking skills for all secondary students including those identified as handicapped that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and career guidance. Career guidance shall include employment counseling designed to furnish information on available employment opportunities to all students, including those identified as handicapped, and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subsection.

5. Academic and vocational preparation for students who plan to continue their education beyond secondary school or who plan to enter employment.

6. Early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with state and federal law.

7. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

8. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

9. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

10. A plan to make achievements for students who are educationally at risk a divisionwide priority which shall include procedures for measuring the progress of such students.

11. A plan to notify students and their parents of the availability of advanced placement classes, the International Baccalaureate program, and Academic Year Governor's School Programs, the qualifications for enrolling in such classes and programs, and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations.

E. Each local school board shall employ with state and local basic, special education, gifted, and vocational education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten shall adjust their average daily membership for kindergarten to reflect eighty-five percent of the total kindergarten average daily memberships, as provided in the appropriation act.

F. In addition to the positions supported by basic aid and in support of regular school year remedial programs, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 estimated to score in the bottom national quartile on Virginia State Assessment Program Tests and those who fail the literacy tests or Standards of Learning assessments for grades three, five, and eight prescribed by the Board. State funding for remedial programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards. The Board of Education shall establish criteria for identification of educationally at-risk students, which shall not be construed to be regulations as defined in § 9-6.14:4; however, the Board of Education may, from time to time, revise these identification criteria. In order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing or revising such identification criteria. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to establish or revise such identification criteria in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any such identification criteria or revisions thereto.

G. Licensed instructional personnel shall be assigned by each school board in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) ~~twenty-four~~ ~~twenty~~ to one in kindergarten with no class being larger than ~~twenty-nine~~ ~~twenty-five~~ students; if the average daily membership in any kindergarten class exceeds ~~twenty-four~~ ~~twenty~~ pupils, a full-time teacher's aide shall be assigned to the class; (ii) ~~twenty-four~~ ~~twenty~~ to one in ~~grade~~ ~~grades~~ one, two, and three with no class being larger than ~~thirty~~ ~~twenty-five~~ students; (iii) ~~twenty-four~~ ~~twenty-three~~ to one in ~~grades two and three~~ ~~grade four~~ with no class being larger than ~~thirty~~ ~~twenty-eight~~ students; (iv) twenty-five to one in grades ~~four through five~~ and six with no class being larger than thirty-five students; and (v) twenty-four to one in English classes in grades six through twelve.

Further, pursuant to the appropriation act, school boards may implement in kindergarten through third grade, within certain schools, lower ratios of students in average daily membership to full-time equivalent teaching positions by assigning instructional personnel in a manner that produces ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, as follows: (i) in schools having high concentrations of at-risk students, eighteen to one; and (ii) in schools having moderate concentrations of at-risk students, twenty to one. For the purposes of this subsection, "schools having high concentrations of at-risk students" and "schools having moderate concentrations of at-risk students" shall be as defined in the appropriation act.

In addition, instructional personnel shall be assigned by each school board in a manner that produces

429 schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of
430 twenty-five to one in middle schools and high schools.

431 School boards shall, however, annually, on or before January 1, report to the public the actual
432 pupil-teacher ratios in elementary school classrooms by school for the current school year. Such actual
433 ratios shall include only the teachers who teach the grade and class on a full-time basis and shall
434 exclude resource personnel. School boards shall report pupil-teacher ratios which include resource
435 teachers in the same annual report. Any classes funded through the voluntary kindergarten through third
436 grade at-risk student/lower ratio program shall be identified as such classes. Any classes having waivers
437 to exceed the requirements of this subsection shall also be identified. Schools shall be identified;
438 however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil
439 identities.

440 H. Students enrolled in a public school on a less than full-time basis shall be counted in average
441 daily membership (ADM) in the relevant school division. Students who are either (i) enrolled in a
442 nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in
443 public school on a less than full-time basis in any mathematics, science, English, history, social science,
444 vocational education, fine arts, foreign language, or health education or physical education course shall
445 be counted in the average daily membership (ADM) in the relevant school division on a pro rata basis
446 as provided in the appropriation act. However, no such nonpublic or home school student shall be
447 counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall
448 not include enrollments of such students in any other public school courses.