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## HOUSE BILL NO. 2124

House Amendments in [ ] - January 26, 2023

A *BILL to amend and reenact § 22.1-253.13:2, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to school psychologists; staffing flexibility.*

Patron Prior to Engrossment—Delegate Wilt

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:2, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:2. (For Expiration Date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel 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, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, 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 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation 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.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language

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HB2124E

59 teachers who provide instruction in English and in a second language.

60 To provide flexibility in the instruction of English language learners who have limited English  
61 proficiency and who are at risk of not meeting state accountability standards, school divisions may use  
62 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to  
63 employ additional English language learner teachers or dual language teachers to provide instruction to  
64 identified limited English proficiency students. Using these funds in this manner is intended to  
65 supplement the instructional services provided in this section. School divisions using the SOQ  
66 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel  
67 licensed by the Board of Education.

68 G. In addition to the full-time equivalent positions required elsewhere in this section, each local  
69 school board shall employ the following reading specialists in elementary schools, one full-time in each  
70 elementary school at the discretion of the local school board. One reading specialist employed by each  
71 local school board that employs a reading specialist shall have training in the identification of and the  
72 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a  
73 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist  
74 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to  
75 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at  
76 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory,  
77 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations,  
78 and assistive technology supports for students with dyslexia.

79 To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ  
80 reading specialists to provide the required reading intervention services. School divisions using the Early  
81 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed  
82 by the Board of Education.

83 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions  
84 for any school that reports fall membership, according to student enrollment:

85 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students;  
86 principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high  
87 schools, one full-time, to be employed on a 12-month basis;

88 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900  
89 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals  
90 in high schools, one full-time for each 600 students; and school divisions that employ a sufficient  
91 number of assistant principals to meet this staffing requirement may assign assistant principals to schools  
92 within the division according to the area of greatest need, regardless of whether such schools are  
93 elementary, middle, or secondary;

94 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;  
95 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time  
96 at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students,  
97 two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to  
98 meet this staffing requirement may assign librarians to schools within the division according to the area  
99 of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

100 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten  
101 through 12.

102 However, in order to meet the staffing requirements set forth in this subdivision, any local school  
103 board (i) may employ, under a provisional license issued by the Department for three school years with  
104 an allowance for an additional two-year extension with the approval of the division superintendent, any  
105 professional licensed by the Board of Counseling, clinical social worker licensed by the Board of Social  
106 Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with  
107 appropriate experience and training, provided that any such individual makes progress toward completing  
108 the requirements for full licensure as a school counselor during such period of employment or (ii) in the  
109 event that the school board does not receive any application from a licensed school counselor,  
110 professional counselor, clinical social worker, or psychologist or another licensed counseling professional  
111 with appropriate experience and training to fill a school counselor vacancy in the school division, may  
112 enter into an annual contract with another entity for the provision of school counseling services by a  
113 licensed professional counselor, clinical social worker, or psychologist or another licensed counseling  
114 professional with appropriate experience and training. Local school boards that employ a sufficient  
115 number of individuals to meet the staffing requirements set forth in this subdivision may assign such  
116 individuals to schools within the division according to the area of greatest need, regardless of whether  
117 such schools are elementary, middle, or high schools.

118 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
119 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

120 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades

kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

*In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.*

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and

media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

**§ 22.1-253.13:2. (For Effective Date, see 2022 Acts cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel 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, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, 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 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation 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.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year

programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or

305 another licensed counseling professional with appropriate experience and training. Local school boards  
306 that employ a sufficient number of individuals to meet the staffing requirements set forth in this  
307 subdivision may assign such individuals to schools within the division according to the area of greatest  
308 need, regardless of whether such schools are elementary, middle, or high schools.

309 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
310 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

311 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades  
312 kindergarten through 12, one to provide technology support and one to serve as an instructional  
313 technology resource teacher.

314 To provide flexibility, school divisions may use the state and local funds for instructional technology  
315 resource teachers to employ a data coordinator position, an instructional technology resource teacher  
316 position, or a data coordinator/instructional resource teacher blended position. The data coordinator  
317 position is intended to serve as a resource to principals and classroom teachers in the area of data  
318 analysis and interpretation for instructional and school improvement purposes, as well as for overall data  
319 management and administration of state assessments. School divisions using these funds in this manner  
320 shall employ only instructional personnel licensed by the Board of Education.

321 K. Local school boards may employ additional positions that exceed these minimal staffing  
322 requirements. These additional positions may include, but are not limited to, those funded through the  
323 state's incentive and categorical programs as set forth in the appropriation act.

324 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
325 requirements for the highest grade level in that school; this requirement shall apply to all staff, except  
326 for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be  
327 based on the school's total enrollment. The Board of Education may grant waivers from these staffing  
328 levels upon request from local school boards seeking to implement experimental or innovative programs  
329 that are not consistent with these staffing levels.

330 M. School boards shall, however, annually, on or before December 31, report to the public (i) the  
331 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the  
332 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local  
333 school division by school for the current school year. Actual pupil/teacher ratios shall include only the  
334 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School  
335 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any  
336 classes funded through the voluntary kindergarten through third grade class size reduction program shall  
337 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection  
338 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to  
339 ensure the confidentiality of all teacher and pupil identities.

340 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the  
341 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving  
342 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time  
343 basis in any mathematics, science, English, history, social science, career and technical education, fine  
344 arts, foreign language, or health education or physical education course shall be counted in the ADM in  
345 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course  
346 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home  
347 school student shall be counted as more than one-half a student for purposes of such pro rata  
348 calculation. Such calculation shall not include enrollments of such students in any other public school  
349 courses.

350 O. Each school board shall provide at least three specialized student support positions per 1,000  
351 students. For purposes of this subsection, specialized student support positions include school social  
352 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior  
353 analysts, and other licensed health and behavioral positions, which may either be employed by the  
354 school board or provided through contracted services.

355 *In order to fill vacant school psychologist positions, any local school board may employ, under a*  
356 *provisional license issued by the Department for three school years with an allowance for an additional*  
357 *two-year extension with the approval of the division superintendent, clinical psychologists licensed by*  
358 *the Board of Psychology, provided that any such individual makes progress toward completing the*  
359 *requirements for full licensure as a school psychologist during such period of employment.*

360 P. Each local school board shall provide those support services that are necessary for the efficient  
361 and cost-effective operation and maintenance of its public schools.

362 For the purposes of this title, unless the context otherwise requires, "support services positions" shall  
363 include the following:

364 1. Executive policy and leadership positions, including school board members, superintendents and  
365 assistant superintendents;

366 2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

**§ 22.1-253.13:2. (Effective pursuant to Va. Const., Art. IV, § 13; for Expiration Date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

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Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical 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.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, 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 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation 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.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed



school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

*In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.*

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

551 For the purposes of this title, unless the context otherwise requires, "support services positions" shall  
552 include the following:

553 1. Executive policy and leadership positions, including school board members, superintendents and  
554 assistant superintendents;

555 2. Fiscal and human resources positions, including fiscal and audit operations;

556 3. Student support positions, including (i) social work administrative positions not included in  
557 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)  
558 homebound administrative positions supporting instruction; (iv) attendance support positions related to  
559 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in  
560 subsection O;

561 4. Instructional personnel support, including professional development positions and library and  
562 media positions not included in subdivision H 3;

563 5. Technology professional positions not included in subsection J;

564 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation  
565 and maintenance professional and service positions; and security service, trade, and laborer positions;

566 7. Technical and clerical positions for fiscal and human resources, student support, instructional  
567 personnel support, operation and maintenance, administration, and technology; and

568 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at  
569 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each  
570 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in  
571 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and  
572 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of  
573 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to  
574 schools within the division according to the area of greatest need, regardless of whether such schools are  
575 elementary, middle, or secondary.

576 Pursuant to the appropriation act, support services shall be funded from basic school aid.

577 School divisions may use the state and local funds for support services to provide additional  
578 instructional services.

579 Q. Notwithstanding the provisions of this section, when determining the assignment of instructional  
580 and other licensed personnel in subsections C through J, a local school board shall not be required to  
581 include full-time students of approved virtual school programs.

582 **§ 22.1-253.13:2. (Effective pursuant to Va. Const, Art. IV, 13; for Effective Date, see Acts 2022,**  
583 **cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

584 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents,  
585 and other professional personnel.

586 B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

587 C. Each school board shall assign licensed instructional personnel in a manner that produces  
588 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,  
589 excluding special education teachers, principals, assistant principals, school counselors or certain other  
590 licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the  
591 following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average  
592 daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be  
593 assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30  
594 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv)  
595 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime  
596 the number of students in a class exceeds the class size limit established by this subsection, the local  
597 school division shall notify the parent of each student in such class of such fact no later than 10 days  
598 after the date on which the class exceeded the class size limit. Such notification shall state the reason  
599 that the class size exceeds the class size limit and describe the measures that the local school division  
600 will take to reduce the class size to comply with this subsection.

601 Within its regulations governing special education programs, the Board shall seek to set pupil/teacher  
602 ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained  
603 classes for pupils with specific learning disabilities.

604 Further, school boards shall assign instructional personnel in a manner that produces schoolwide  
605 ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in  
606 middle schools and high schools. School divisions shall provide all middle and high school teachers with  
607 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

608 D. Each local school board shall employ with state and local basic, special education, gifted, and  
609 career and technical education funds a minimum number of licensed, full-time equivalent instructional  
610 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation  
611 act.

612 E. In addition to the positions supported by basic aid and in support of regular school year programs

of prevention, intervention, and remediation, 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 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation 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.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ one reading specialist for each 550 students in kindergarten through grade three. Each such reading specialist shall have training in science-based reading research and evidence-based literacy instruction practices. In addition, each such reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to student enrollment:

1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through 12.

However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i) may employ, under a provisional license issued by the Department for three school years with

an allowance for an additional two-year extension with the approval of the division superintendent, any professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate experience and training, provided that any such individual makes progress toward completing the requirements for full licensure as a school counselor during such period of employment or (ii) in the event that the school board does not receive any application from a licensed school counselor, professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training to fill a school counselor vacancy in the school division, may enter into an annual contract with another entity for the provision of school counseling services by a licensed professional counselor, clinical social worker, or psychologist or another licensed counseling professional with appropriate experience and training. Local school boards that employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on the school's total enrollment. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each school board shall provide at least three specialized student support positions per 1,000 students. For purposes of this subsection, specialized student support positions include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, which may either be employed by the school board or provided through contracted services.

*In order to fill vacant school psychologist positions, any local school board may employ, under a provisional license issued by the Department for three school years with an allowance for an additional*

*two-year extension with the approval of the division superintendent, clinical psychologists licensed by the Board of Psychology, provided that any such individual makes progress toward completing the requirements for full licensure as a school psychologist during such period of employment.*

P. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social work administrative positions not included in subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

**[ 2. That the Department of Education shall consult the Virginia Academy of School Psychologists, and other stakeholders as necessary, to ensure that the process and criteria for provisionally licensed school psychologists to obtain full licensure as school psychologists appropriately address the challenges that are unique to school psychology training requirements and the school psychology profession generally. ]**

ENGROSSED

HB2124E