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SENATE BILL NO. 105**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Education
on February 21, 2024)

(Patrons Prior to Substitute—Senators Lucas, VanValkenburg [SBs 127 and 128], Subramanyam [SB 187], Hashmi [SBs 227 and 228], and Aird [SB 609])

*A BILL to amend and reenact §§ 22.1-199.1, 22.1-253.13:2, as it shall become effective, and 51.1-617 of the Code of Virginia, relating to public school funding; At-Risk Program established.***Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-199.1, 22.1-253.13:2, as it shall become effective, and 51.1-617 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-199.1. Programs designed to promote educational opportunities.**

A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil/teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class sizes for grades K through three in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

With such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K through three in schools with high or moderate concentrations of at-risk students, consistent with the provisions provided in the appropriation act.

In order to facilitate these primary grade ratio and class size reductions, the Department shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil/teacher ratio.

In developing each proposed biennium budget for public education, the Board shall include funding for these ratios and class sizes. These ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Therefore, the Board shall strive to incorporate technological studies within the teaching of all disciplines. Further, the General Assembly notes that educational technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established.

With such funds as are appropriated for this purpose, the Board shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act.

Funds for improving the quality and capacity of educational technology shall also be provided as set forth in the appropriation act, including (i) funds for providing a technology resource assistant to serve every elementary school in this Commonwealth and (ii) funds to maintain the currency of career and technical education programs. Any local school board accepting funds to hire technology resource assistants or maintain currency of career and technical education programs shall commit to providing the required matching funds, based on the composite index of local ability to pay.

Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent, for integrating technology into the classroom and into schoolwide instructional programs, including career and technical education programs. The first priority for funding shall be consistent with those components of the Board's revised six-year technology plan that focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions, including professional development for personnel

60 delivering career and technical education at all levels and positions; and (iii) assisting school divisions in
61 developing integrated voice-, video-, and data-connectivity to local, national and international resources.

62 This funding may be used to implement a local school division's long-range technology plan, at the
63 discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the
64 Board's revised six-year technology plan and has been approved by the Superintendent.

65 The Department of Education, the Department of General Services, and the Virginia Information
66 Technologies Agency shall coordinate master contracts for the purchase by local school boards of the
67 aforementioned educational technologies and reference materials.

68 A technology replacement program shall be, with such funds as may be appropriated for this
69 purpose, implemented to replace obsolete educational hardware and software. As provided in subsection
70 D of § 22.1-129, school boards may donate obsolete educational technology hardware and software that
71 are being replaced. Any such donations shall be offered to other school divisions and to preschool
72 programs in the Commonwealth or to public school students as provided in guidelines to be promulgated
73 by the Board. Such guidelines shall include criteria for determining student eligibility and need, a
74 reporting system for the compilation of information concerning the number and socioeconomic
75 characteristics of recipient students, and notification of parents of the availability of such donations of
76 obsolete educational hardware and software.

77 C. The General Assembly finds that local autonomy in making decisions on local educational needs
78 and priorities results in effective grassroots efforts to improve education in the Commonwealth's public
79 schools only when coupled with sufficient state funding; to this end, the following block grant program
80 is hereby established. With such funds as are provided in the appropriation act, the Department shall
81 distribute block grants to localities to enable compliance with the Commonwealth's requirements for
82 school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block
83 grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act
84 for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project
85 YES; Project Discovery; English as a second language programs, including programs for overage,
86 non schooled students; Advancement Via Individual Determination (AVID); the Homework Assistance
87 Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds
88 shall not be used to pay any expenses of participating students at institutions of higher education; and
89 school/community health centers. Each school board may use any funds received through the block grant
90 to implement the covered programs and other programs designed to save the Commonwealth's children
91 from educational failure.

92 D. In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as
93 may be appropriated for this purpose, each school board may employ additional classroom teachers,
94 remedial teachers, and reading specialists for each of its elementary schools over the requirements of the
95 Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers,
96 and reading specialists shall be apportioned as provided in the appropriation act.

97 E. D. Pursuant to a turnaround specialist program administered by the Department, local school
98 boards may enter into agreements with individuals to be employed as turnaround specialists to address
99 those conditions at the school that may impede educational progress and effectiveness and academic
100 success. Local school boards may offer such turnaround specialists or other administrative personnel
101 incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2
102 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603,
103 relocation expenses, bonuses, and other incentives as may be determined by the board.

104 F. E. The General Assembly finds that certain schools have particular difficulty hiring teachers for
105 certain subject areas and that the need for such teachers in these schools is particularly strong.
106 Accordingly in an effort to attract and retain high quality teachers, local school boards may offer
107 instructional personnel serving in such schools as a member of a middle school teacher corps
108 administered by the Department incentives such as increased compensation, improved retirement benefits
109 in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in
110 accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by
111 the board.

112 For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel
113 who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight
114 where there is a critical need, as determined by the Department. The contract between such persons and
115 the relevant local school board shall specify that the contract is for service in the middle school teacher
116 corps.

117 § 22.1-253.13:2. (For effective date, see Acts 2022, cc. 549 and 550, cl. 2) Standard 2.
118 Instructional, administrative, and support personnel.

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

121 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.

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.

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 five and one reading specialist for each 1,100 students in grades six through eight. 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. Local school divisions that employ a sufficient number of reading specialists to meet this staffing standard may assign reading specialists to grade levels according to grade levels with greatest need, regardless of the individual staffing standards established for grades kindergarten through five and six through eight.

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.

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 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

306 instructional services.

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

310 R. *There is hereby established the At-Risk Program for the purpose of supporting programs and*
311 *services for students who are educationally at risk, including prevention, intervention, or remediation*
312 *activities required pursuant to Standard 1 (§ 22.1-253.13:1); teacher recruitment programs and*
313 *incentives; Dropout Prevention; community and school-based truancy officer programs; Advancement*
314 *Via Individual Determination (AVID); Project Discovery; programs for English language learners; the*
315 *hiring of additional school counselors, testing coordinators, and licensed behavior analysts; and*
316 *programs relating to increasing the success of disadvantaged students in completing a high school*
317 *degree and providing opportunities to encourage further education and training. A portion of the state*
318 *funding provided for the At-Risk Program shall be allocated to school divisions on a flat per-student*
319 *percentage rate set out in the general appropriation act and a portion of such funding shall be*
320 *allocated to school divisions on a variable rate set out in the general appropriation act based on the*
321 *concentration of poverty in the school division.*

322 S. *If the Board has required a local school board to submit a corrective action plan pursuant to*
323 *§ 22.1-253.13:3, either for the school division pursuant to a division-level review or for any school*
324 *within the school division that has been designated as not meeting the standards as approved by the*
325 *Board, the Superintendent shall determine and report to the Board whether each such local school*
326 *board has met its obligation to develop and submit any such corrective action plan and is making*
327 *adequate and timely progress in implementing any such plan. Additionally, if an academic or other*
328 *review process undertaken pursuant to § 22.1-253.13:3 has identified actions for a local school board to*
329 *implement, the Superintendent shall determine and report to the Board whether the local school board*
330 *has implemented such required actions. If the Superintendent certifies that a local school board has*
331 *failed or refused to meet any of such obligation as contained in a memorandum of understanding*
332 *between the local school board and the Board, the Board shall withhold payment of some or all of the*
333 *state funds allocated to the school division pursuant to the At-Risk Program established in subsection R*
334 *for the upcoming fiscal year. In determining the amount of such funds to be withheld, the Board shall*
335 *take into consideration the extent to which such funds have already been expended or contractually*
336 *obligated. The Board shall also provide each such local school board the opportunity to correct its*
337 *failure or refusal, and if the local school board does so in a timely manner, the Board may restore*
338 *some or all of such funds.*

339 **§ 51.1-617. Definitions.**

340 As used in this chapter, unless the context requires a different meaning:

341 "Board" means the Board of Trustees of the Virginia Retirement System.

342 "Eligible employee" means any turnaround specialist or member of the middle school teacher corps
343 providing services for a participating public school division pursuant to subsections D and E ~~and F~~ of
344 § 22.1-199.1.

345 "Participating employer" means any local public school board that offers and pays the costs of
346 improved retirement benefits as described in subsections D and E ~~and F~~ of § 22.1-199.1.

347 "Plan" means the defined contribution plan established pursuant to this chapter and the provisions of
348 § 401 (a) of the Internal Revenue Code of 1986, as amended.

349 "Qualified participant" means an eligible employee of a participating employer.