

HOUSE BILL NO. 825

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on February 7, 2024)

(Patron Prior to Substitute--Delegate Cousins)

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

27 ratio and class size reductions based on the composite index of local ability to pay. School divisions shall
28 notify the Department of their intention to implement the reduced ratios and class sizes in one or more of
29 their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall
30 forward data substantiating that each participating school has a complying pupil/teacher ratio.

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

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

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

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

49 Each qualifying school board shall establish an individualized technology plan, which shall be
50 approved by the Superintendent, for integrating technology into the classroom and into schoolwide
51 instructional programs, including career and technical education programs. The first priority for funding
52 shall be consistent with those components of the Board's revised six-year technology plan that focus on
53 (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii)

54 providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of
55 pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors
56 as required by the Standards of Learning, and (d) training and professional development on available
57 technologies and software to all levels and positions, including professional development for personnel
58 delivering career and technical education at all levels and positions; and (iii) assisting school divisions in
59 developing integrated voice-, video-, and data-connectivity to local, national and international resources.

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

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

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

75 ~~C. The General Assembly finds that local autonomy in making decisions on local educational~~
76 ~~needs and priorities results in effective grassroots efforts to improve education in the Commonwealth's~~
77 ~~public schools only when coupled with sufficient state funding; to this end, the following block grant~~
78 ~~program is hereby established. With such funds as are provided in the appropriation act, the Department~~
79 ~~shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for~~
80 ~~school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block~~

81 ~~grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act~~
82 ~~for the covered programs, including the at risk add-on program; dropout prevention, specifically Project~~
83 ~~YES; Project Discovery; English as a second language programs, including programs for overage,~~
84 ~~nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance~~
85 ~~Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds~~
86 ~~shall not be used to pay any expenses of participating students at institutions of higher education; and~~
87 ~~school/community health centers. Each school board may use any funds received through the block grant~~
88 ~~to implement the covered programs and other programs designed to save the Commonwealth's children~~
89 ~~from educational failure.~~

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

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

102 ~~F.~~E. The General Assembly finds that certain schools have particular difficulty hiring teachers for
103 certain subject areas and that the need for such teachers in these schools is particularly strong. Accordingly
104 in an effort to attract and retain high quality teachers, local school boards may offer instructional personnel
105 serving in such schools as a member of a middle school teacher corps administered by the Department
106 incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2

107 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603,
108 relocation expenses, bonuses, and other incentives as may be determined by the board.

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

114 § 22.1-253.13:2. (For effective date, see Acts 2022, cc. 549 and 550, cl. 2) **Standard 2.**
115 **Instructional, administrative, and support personnel.**

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

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

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

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

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

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

145 E. In addition to the positions supported by basic aid and in support of regular school year programs
146 of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be
147 provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K
148 through 12 who are identified as needing prevention, intervention, and remediation services. State funding
149 for prevention, intervention, and remediation programs provided pursuant to this subsection and the
150 appropriation act may be used to support programs for educationally at-risk students as identified by the
151 local school boards.

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

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

161 identified as having limited English proficiency, which positions may include dual language teachers who
162 provide instruction in English and in a second language.

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

171 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
172 school board shall employ one reading specialist for each 550 students in kindergarten through grade five
173 and one reading specialist for each 1,100 students in grades six through eight. Each such reading specialist
174 shall have training in science-based reading research and evidence-based literacy instruction practices. In
175 addition, each such reading specialist shall have training in the identification of and the appropriate
176 interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder
177 and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an
178 understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student
179 on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages
180 and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit,
181 systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and
182 assistive technology supports for students with dyslexia.

183 To provide reading intervention services required by § 22.1-253.13:1, school divisions may
184 employ reading specialists to provide the required reading intervention services. School divisions using
185 the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel
186 licensed by the Board. Local school divisions that employ a sufficient number of reading specialists to
187 meet this staffing standard may assign reading specialists to grade levels according to grade levels with

188 greatest need, regardless of the individual staffing standards established for grades kindergarten through
189 five and six through eight.

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

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

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

200 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
201 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at
202 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two
203 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet
204 this staffing requirement may assign librarians to schools within the division according to the area of
205 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

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

208 However, in order to meet the staffing requirements set forth in this subdivision, any local school
209 board (i) may employ, under a provisional license issued by the Department for three school years with
210 an allowance for an additional two-year extension with the approval of the division superintendent, any
211 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board
212 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling
213 professional with appropriate experience and training, provided that any such individual makes progress
214 toward completing the requirements for full licensure as a school counselor during such period of

215 employment or (ii) in the event that the school board does not receive any application from a licensed
216 school counselor, professional counselor, clinical social worker, or psychologist or another licensed
217 counseling professional with appropriate experience and training to fill a school counselor vacancy in the
218 school division, may enter into an annual contract with another entity for the provision of school
219 counseling services by a licensed professional counselor, clinical social worker, or psychologist or another
220 licensed counseling professional with appropriate experience and training. Local school boards that
221 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision
222 may assign such individuals to schools within the division according to the area of greatest need,
223 regardless of whether such schools are elementary, middle, or high schools.

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

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

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

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

239 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing
240 requirements for the highest grade level in that school; this requirement shall apply to all staff, except for
241 school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based

242 on the school's total enrollment. The Board may grant waivers from these staffing levels upon request
243 from local school boards seeking to implement experimental or innovative programs that are not consistent
244 with these staffing levels.

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

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

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

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

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

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

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

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

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

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

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

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

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

294 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
295 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each

296 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
297 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
298 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
299 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
300 schools within the division according to the area of greatest need, regardless of whether such schools are
301 elementary, middle, or secondary.

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

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

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

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

319 S. If the Board has required a local school board to submit a corrective action plan pursuant to §
320 22.1-253.13:3, either for the school division pursuant to a division-level review or for any school within
321 the school division that has been designated as not meeting the standards as approved by the Board, the
322 Superintendent shall determine and report to the Board whether each such local school board has met its

323 obligation to develop and submit any such corrective action plan and is making adequate and timely
324 progress in implementing any such plan. Additionally, if an academic or other review process undertaken
325 pursuant to § 22.1-253.13:3 has identified actions for a local school board to implement, the
326 Superintendent shall determine and report to the Board whether the local school board has implemented
327 such required actions. If the Superintendent certifies that a local school board has failed or refused to meet
328 any of such obligation as contained in a memorandum of understanding between the local school board
329 and the Board, the Board shall withhold payment of some or all of the state funds allocated to the school
330 division pursuant to the At-Risk Program established in subsection R for the upcoming fiscal year. In
331 determining the amount of such funds to be withheld, the Board shall take into consideration the extent to
332 which such funds have already been expended or contractually obligated. The Board shall also provide
333 each such local school board the opportunity to correct its failure or refusal, and if the local school board
334 does so in a timely manner, the Board may restore some or all of such funds.

335 **§ 51.1-617. Definitions.**

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

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

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

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

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

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

346 #