

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** SB105

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

**2. Patron:** Lucas

**3. Committee:** Passed both houses

**4. Title:** English language learner students; rations of instructional positions, At-Risk Program established..

**5. Summary:** Amends Standard of Quality 2 by (i) requiring state funding to be provided to support ratios of instructional positions to English language learner students, based on each such student's English proficiency level, as established in the general appropriation act and (ii) (a) establishing the At-Risk Program for the purpose of supporting programs and services for students who are educationally at risk, including prevention, intervention, or remediation activities required pursuant to Standard 1 (§ 22.1-253.13:1); teacher recruitment programs and incentives; Dropout Prevention; community and school-based truancy officer programs; Advancement Via Individual Determination (AVID); Project Discovery; programs for English language learners; the hiring of additional school counselors, testing coordinators, and licensed behavior analysts; and programs relating to increasing the success of disadvantaged students in completing a high school degree and providing opportunities to encourage further education and training and (b) requiring a portion of the state funding provided for such At-Risk Program to be allocated to school divisions on a flat per-student percentage rate set out in the general appropriation act and a portion of such funding to be allocated to school divisions on a variable rate set out in the general appropriation act based on the concentration of poverty in the school division. Renames the National Teacher Certification Incentive Reward Program and Fund as the National Board Certification Incentive Reward Program and Fund, expands eligibility for incentive grant awards from such Fund pursuant to such Program from solely teachers who have obtained national certification from the National Board for Professional Teaching Standards to public school staff who have obtained national certification or who are candidates for initial certification or maintenance of certification. Finally, the bill directs the Department of Education to (a) develop and implement a data collection process related to English language learner expenditures and student English proficiency levels to begin to address the recommendations of the Joint Legislative Audit and Review Commission's 2023 review of Virginia's K-12 Funding Formula and (b) develop, in coordination with the Department of Behavioral Health and Developmental Services or any other relevant stakeholders, a plan for revised special education staffing requirements that addresses the staffing needs of each special education program in each school division.

**6. Budget Amendment Necessary:** Yes, Item 118, Item 124 and Item 125.

**7. Fiscal Impact Estimates:** Final, see item 8.

**8. Fiscal Implications:** The bill removes the existing At-Risk Add-on program and replaces it with a new At-Risk program and formula. The Governor's Introduced Budget, HB/SB 30, 2024 General Assembly Session, includes \$237.8 million general fund and \$202.1 million lottery fund in FY25 and \$243.1 million general fund and \$195.0 million lottery fund in FY26 for the existing At-Risk Add-on program. At this time DOE is not able to estimate the impact of replacing the existing program with the new At-Risk Program for the 2024-2026 biennium. The bill directs how funding for the At-Risk Program shall be distributed but does not require a specific funding amount, so an additional impact above the current amounts provided in HB/SB30 is unknown. DOE would require additional direction on funding levels and methodology from the appropriation act, including the flat per-student percentage rate and the variable rate to be used to distribute funding. Any significant changes to methodology or the creation of a new program require time to be programmed into the SOQ model and for data and calculation verification. Any actual impact is indeterminate.

This bill directs that the staffing standard for English language learners shall be based on proficiency levels at ratios set out in the appropriation act. HB/SB 30 provides \$128.1 million general fund in FY25 and \$136.7 million general fund in FY26 to fund the existing English language learner staffing standard, which does not utilize proficiency levels. English language proficiency for English language learner (ELL) students is assessed using the WIDA Consortium's ACCESS for ELLs test. This data is different from the traditional data used to support the ELL ratios in HB/SB30, which is based on historical English as a Second Language (ESL) enrollment trends. DOE does not have a WIDA proficiency level classification for all students enrolled in ESL as all students that are enrolled in ESL are likely not being assessed every year. At this time DOE is not able to estimate the impact of replacing the existing staffing standard with a proficiency-based standard, as any impact would be dependent on the ratios set out in the appropriation act.

Budget language amendments would be needed in Item 125 to remove the existing programs and staffing standard that this bill removes and to describe the methodology, rates, and ratios that DOE shall use for the new programs.

Local school divisions would be required to meet the required local effort for any additional state funds received based on local composite index. The actual fiscal impact to local school divisions is indeterminate at this time.

This bill would expand and rename the existing National Teacher Certification Incentive Program. The bill expands eligibility for grants to staff who have obtained national certification or who are candidates for initial or maintenance of certification (MOC). For candidates who are working in a Title 1 school or a school eligible for participation in the Community Eligibility Provision (CEP) and who are candidates for initial national certification, the bill authorizes award amounts to include half of the certification fee and the registration fee upon initial registration and the balance of the certification fee upon successful achievement of the certification. For candidates who are working in a Title 1 school or a school eligible for participation in CEP and who are pursuing MOC, the bill authorizes award amounts to include the total MOC fee, equal to the sum of the cost of MOC and the registration fee, to be paid upon successful completion of the MOC process. The current cost of initial certification is \$1,900 plus a \$75 registration fee. The current cost to maintain the certification is \$495 plus a \$75 registration fee. At this time, it is not possible to determine the additional number of individuals

that would be eligible to receive a grant based on the expanded eligibility and allowance for initial certification, or the MOC schedule for existing or future certified staff. Therefore, the annual cost to support these fees is indeterminate at this time; however, there would be an additional state cost each year to support these additional grants. DOE does not currently have the staff available to support the administration of the expanded program and would require an additional position at an estimated cost of \$140,045 per year including salary, benefits, and technology.

The second enactment requires DOE to collect data from local school divisions related to English language learner expenditures and English proficiency levels and provide an update to the Joint Subcommittee on Elementary and Secondary Funding by September 1, 2024. DOE does not anticipate a cost to collect this data but indicates that the earliest this data could be collected would be FY25 and therefore data would likely not be available before the reporting deadline. Any cost to local school divisions to track English language learner expenses is indeterminate.

The third Enactment of this bill requires DOE to develop a plan for revised special education staffing requirements. DOE estimates that \$27,500 would be required in one-time general fund support in FY25 in order to complete the work to develop this plan. The Department of Behavioral Health and Developmental Services can absorb any costs to work with DOE on the report and plan.

**9. Specific Agency or Political Subdivisions Affected:** Department of Education, local school divisions, Department of Behavioral Health and Developmental Services

**10. Technical Amendment Necessary:** No

**11. Other Comments:** The bill establishes an At-Risk Program for the purpose of supporting programs and services for students who are educationally at risk, including prevention, intervention, or remediation activities required pursuant to Standard 1 (§ 22.1-253.13:1). The bill retains language on lines 148-151 that requires state funding, pursuant to the appropriation act, to be provided to support certain full-time equivalent positions for each 1,000 students in grades K-12 who are identified as needing prevention, intervention, and remediation services. The funding formula for the existing Standards of Quality (SOQ) Prevention, Intervention, and Remediation program in HB/SB30, 2024 General Assembly Session, drives funded SOQ positions pursuant to this language, and those positions drive additional state funding under other accounts including Basic Aid, retirement, benefits, and compensation supplement. The conference amendments to HB/SB30 eliminate the SOQ Prevention, Intervention, and Remediation program, which also eliminates those SOQ funded positions and the related funding under accounts such as Basic Aid, retirement, benefits, and compensation supplement. The funding formula for the new At-Risk program created by this bill and funded in the conference amendments does not drive SOQ positions in support of the language on lines 148-151.

This bill is identical to HB624.