

1 S.242

2 Introduced by Senator Giard

3 Referred to Committee on

4 Date:

5 Subject: Education; special education; personal care attendant; home study

6 Statement of purpose: This bill proposes to ensure that a parent is not
7 financially precluded from enrolling a severely disabled child in a home study
8 program by (a) providing an annual payment from the education fund to the
9 parent in an amount equal to the average announced tuition for the year and (b)
10 seeking a federal waiver that would allow a parent to be named and receive
11 payment as a child's personal care attendant.

12 An act relating to ensuring a free and appropriate education for a child with
13 a severe disability whose needs are best met at home

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 16 V.S.A. § 2942(8) is added to read:

16 (8) "Child with a severe disability" means a person who:

17 (A) is between the ages of 10 and 22;

18 (B) has been enrolled in a public or approved independent school for
19 at least four years;

1 (C) had an individualized education plan during the period of
2 enrollment;

3 (D) has been determined by the agency of human services to meet the
4 clinical eligibility requirements established in the Choices for Care Medicaid
5 Section 1115 long-term care waiver for the highest needs group; and

6 (E) has needs that, as determined by state board rule, are best met by
7 a home study program under section 166b of this title.

8 Sec. 2. 16 V.S.A. § 2976 is added to read:

9 § 2976. PARENTAL EDUCATOR PAYMENTS; CHILD WITH A SEVERE
10 DISABILITY

11 (a) A parental educator payment in an amount equal to the average
12 announced tuition for Vermont union high schools or elementary schools, as
13 appropriate, shall be paid from the education fund on or before September 10
14 to a parent or legal guardian in every academic year in which, pursuant to
15 section 166b of this title, the parent or legal guardian enrolls a child with a
16 severe disability, as defined by subdivision 2942(8) of this title, in a home
17 study program that includes an individualized education plan.

18 (b) The agency of human services shall perform the clinical eligibility
19 determination required by subdivision 2942(8)(D) of this title. An individual
20 shall not be required to apply for, to be otherwise eligible for, or to be enrolled
21 in the Choices for Care Medicaid Section 1115 long-term care waiver for the

1 highest needs group. Appeals from the determination of clinical eligibility shall
2 be to the human services board.

3 Sec. 3. 16 V.S.A. § 4025(b)(1) is amended to read:

4 (b) Moneys in the education fund shall be used for the following:

5 (1) To make payments to school districts and supervisory unions for the
6 support of education in accordance with the provisions of section 4028 of this
7 title, other provisions of this chapter, and the provisions of chapter 135 of
8 Title 32 and to make payments to parents in accordance with the provisions of
9 section 2976 of this title.

10 Sec. 4. IMPLEMENTATION

11 On or before July 1, 2011, the agency of human services and the department of
12 education shall adopt a procedure to ensure the timely determination of clinical
13 eligibility required under Secs. 1 and 2 of this act.

14 Sec. 5. MEDICAID WAIVER

15 (a) No later than November 1, 2010, the secretary of human services or
16 designee shall apply to the Centers for Medicare and Medicaid Services (CMS)
17 to modify the Global Commitment for Health Medicaid Section 1115 waiver,
18 the Choices for Care Medicaid Section 1115 long-term care waiver, or both as
19 necessary, in order to provide a wage or financial assistance to parents to
20 provide personal care services to their own children with a severe disability as
21 defined in section 2942(8) of Title 16 who are otherwise eligible for the
22 children's personal care services program. The wage or financial assistance

1 provided to parents shall be equal to the amount provided to personal care
2 attendants under the children's personal care services program.

3 (b) Within six months of approval of the waiver amendment by CMS, the
4 secretary of human services or designee shall modify the rules for the children's
5 personal care services program to provide for the wage or financial assistance
6 under the terms and conditions approved by CMS.

7 Sec. 6. EFFECTIVE DATE

8 (a) Secs. 4 and 5 of this act and this section shall take effect on passage.

9 (b) Secs. 1 through 3 shall take effect on July 1, 2011.