

1 S.52

2 Introduced by Senators McCormack, Baruth, Cummings, Fox, Lyons, Pollina,  
3 Starr, White, and Zuckerman

4 Referred to Committee on

5 Date:

6 Subject: Labor; collective bargaining; child care providers

7 Statement of purpose of bill as introduced: This bill proposes to extend  
8 collective bargaining rights to child care providers to improve the quality of  
9 early education in Vermont.

10 An act relating to child care providers

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

12 Sec. 1. FINDINGS

13 The General Assembly finds:

14 (1) The instruction young children receive is a critical aspect of child  
15 care.

16 (2) Vermont families currently need affordable quality child care.

17 (3) The work environment of a child care provider is the learning  
18 environment for a child. The early education a child receives before school  
19 age, particularly before the age of three, has a profound effect on future

1 mental, psychological, and academic success. Quality early education lays  
2 vital groundwork for the success of Vermont children.

3 (4) The early education workforce faces an assortment of challenges,  
4 such as low wages, a lack of benefits, and insufficient continuing education  
5 opportunities. These obstacles prevent the development of a stable early  
6 education workforce, and the availability of quality early child care in the State  
7 continues to suffer.

8 (5) Whether center-based or home-based, all early childhood educators  
9 should have the opportunity to work collectively with the state to enhance  
10 educational training courses, increase child care services funding, and ensure  
11 the constant improvement of early learning in Vermont.

12 Sec. 2. 33 V.S.A. Chapter 36 is added to read:

13 CHAPTER 36.

14 CHILD CARE PROVIDERS LABOR RELATIONS ACT

15 § 3601. PURPOSE

16 (a) The General Assembly recognizes the right of all child care providers  
17 receiving child care services funding to collectively bargain with the State over  
18 matters within the State's purview to improve the quality of child care for  
19 Vermont families.

20 (b) The General Assembly intends to create a new type of collective  
21 bargaining for child care providers whereby they can come together and

1 bargain with the State over matters within the State’s purview to improve the  
2 quality of child care for the State’s families. Unlike traditional collective  
3 bargaining, this new approach will afford child care providers the opportunity  
4 to bargain with the State over the State’s fiscal and other support for child care  
5 services and matters of common concern to all child care providers.

6 (c) Specific terms and conditions of employment at individual child care  
7 centers, which are the subject of traditional collective bargaining between  
8 employers and employees, are outside the limited scope of this act.

9 Accordingly, traditional policy concerns over supervisors and employees being  
10 organized into a common bargaining unit are inapplicable. All child care  
11 providers will be equally able to maintain membership in the organization that  
12 represents them in their efforts to improve the quality of child care in Vermont.

13 (d) The matters subject to this chapter are within the purview of the State of  
14 Vermont and relevant to all child care providers receiving child care services  
15 funding.

16 (e) The State intends that the “state action” exemption to federal antitrust  
17 laws be fully available to the State, to child care providers, and to their  
18 exclusive representative and that exempt conduct shall be actively supervised  
19 by the State.

20 (f) Child care providers do not forfeit their rights under the National Labor  
21 Relations Act, 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations

1 Act, 21 V.S.A. § 1501, et seq., by becoming members of an organization that  
2 represents them in their dealings with the State. The terms and conditions of  
3 employment with individual child care providers, which are the subjects of  
4 traditional collective bargaining between employers and employees and which  
5 are governed by federal law, fall outside the limited scope of bargaining  
6 defined in this chapter.

7 § 3602. DEFINITIONS

8 As used in this chapter:

9 (1) “Board” means the State Labor Relations Board established under  
10 3 V.S.A. § 921.

11 (2)(A) “Child care provider” means a person, acting in a supervisory or  
12 nonsupervisory role, who provides child care services as defined by  
13 section 3511(3) of this title and is receiving child care services funding,  
14 including:

15 (i) a licensed child care home;

16 (ii) a registered child care home; and

17 (iii) a license-exempt child care provider home.

18 (B) Included in the definition of “child care provider” are private  
19 child care providers and their employees under contract with a school district,  
20 as defined by 16 V.S.A. § 11(10), to provide prekindergarten or child care  
21 services. Excluded from this definition are employees of a school district as

1 defined in 16 V.S.A. § 11(10), employees of a supervisory union as defined in  
2 16 V.S.A. § 11(23), employees of an independent school as defined in  
3 16 V.S.A. § 11(8), and employees of licensed after-school programs offered by  
4 a school district or independent school.

5 (3) “Child care services funding” means state payments under either the  
6 child care services program established by sections 3512 and 3513 of this title  
7 or other sources of direct funding for child care.

8 (4) “Collective bargaining” or “bargaining collectively” means the  
9 process by which the State of Vermont and the exclusive representative of  
10 child care providers negotiate terms or conditions under the purview of the  
11 Department for Children and Families and as defined in section 3603(c) of this  
12 title with the intent to arrive at an agreement which, when reached, shall be  
13 legally binding on all parties.

14 (5) “Commissioner” means the Commissioner of the Department for  
15 Children and Families.

16 (6) “Exclusive representative” means a labor organization that has been  
17 elected or recognized and certified under this chapter and consequently has the  
18 right under section 3608 of this title to represent child care providers in an  
19 appropriate bargaining unit for the purpose of collective bargaining.

20 (7) “Grievance” means a child care provider’s or the exclusive  
21 representative’s formal written complaint regarding an improper application of

1 one or more terms of the collective bargaining agreement or the discriminatory  
2 application of a rule or regulation that has not been resolved to a satisfactory  
3 result through informal discussion with the State.

4 § 3603. ESTABLISHMENT OF COLLECTIVE BARGAINING

5 (a) Child care providers, through their exclusive representative, shall have  
6 the right to bargain collectively with the State through the Commissioner as the  
7 Governor's designee.

8 (b) Subjects of bargaining shall include child care subsidy reimbursement  
9 rates and procedures, professional development, the collection and  
10 disbursement of dues or fees to the exclusive representative, procedures for  
11 resolving grievances, and any other matters that would improve the recruitment  
12 and retention of child care providers and the early education services that they  
13 provide.

14 (c) The State, through the Commissioner, shall meet with the exclusive  
15 representative selected by child care providers for the purposes of entering into  
16 a written agreement that shall legally bind the State and the exclusive  
17 representative.

18 (d) Child care providers shall be considered state employees and the State  
19 shall be considered the employer solely for the purpose of collective  
20 bargaining under this chapter. Child care providers shall not be considered  
21 state employees for purposes other than collective bargaining.

1        § 3604. RIGHTS OF CHILD CARE PROVIDERS

2            Child care providers shall have the right to:

3            (1) organize, form, join, or assist any union or labor organization for the  
4            purposes of collective bargaining without any interference, restraint, or  
5            coercion;

6            (2) bargain collectively through representatives of their own choice;

7            (3) engage in concerted activities for the purpose of supporting or  
8            engaging in collective bargaining;

9            (4) pursue grievances as provided in this chapter; and

10           (5) refrain from any or all such activities.

11        § 3605. UNIT

12           (a) The bargaining unit shall be composed of licensed home child care  
13           providers and their employees, registered home child care providers and their  
14           employees, and license-exempt child care providers and their employees.

15           (b) Child care providers may select an exclusive representative for the  
16           purpose of collective bargaining by using the procedures in sections 3606 and  
17           3607 of this title.

18           (c) The exclusive representative of the child care providers is required to  
19           represent all of the child care providers in the unit without regard to  
20           membership in the union.

1     § 3606. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS;  
2             HEARINGS; DETERMINATIONS

3             (a) A petition may be filed with the Board in accordance with regulations  
4     prescribed by the Board:

5             (1) By a child care provider or group of child care providers or any  
6     individual or labor organization acting on their behalf:

7             (A) alleging that not less than 30 percent of the child care providers  
8     in the petitioned bargaining unit wish to be represented for collective  
9     bargaining and that the State declines to recognize their representative as the  
10    representative defined in this chapter; or

11            (B) asserting that the labor organization that has been certified or is  
12    being currently recognized by the State as the bargaining representative no  
13    longer represents a majority of child care providers.

14            (2) By the State alleging that one or more individuals or labor  
15    organizations has presented a claim to be recognized as the exclusive  
16    representative defined in this chapter.

17            (b) The Board shall investigate the petition and if it has reasonable cause to  
18    believe that a question concerning representation exists shall conduct a hearing  
19    to determine the appropriateness of the proposed bargaining unit, eligible voter  
20    list, and whether an election is barred by a contract or a prior election. The  
21    hearing shall be held before the Board, a member of the Board, or its agents



1 appointed for that purpose upon due notice. Written notice of the hearing shall  
2 be mailed by certified mail to the parties named in the petition not less than  
3 seven days before the hearing. If the Board finds upon the record of the  
4 hearing that a question of representation exists, it shall conduct an election by  
5 secret ballot and certify to the parties, in writing, the results thereof.

6 (c) In determining whether or not a question of representation exists, the  
7 Board shall apply the same regulations and rules of decision regardless of the  
8 identity of the persons filing the petition or the kind of relief sought.

9 (d) Nothing in this chapter prohibits the waiving of hearings by stipulation  
10 for a consent election in conformity with regulations and rules of the Board.

11 (e) For the purposes of this chapter, the State may voluntarily recognize the  
12 exclusive representative of a unit of child care providers if the labor  
13 organization demonstrates that it has the support of a majority of the child care  
14 providers in the unit it seeks to represent.

15 § 3607. ELECTION; RUNOFF ELECTIONS

16 (a) If a question of representation exists, the Board shall conduct a secret  
17 ballot election to determine the exclusive representative of the unit of child  
18 care providers. The labor organization receiving a majority of votes cast shall  
19 be certified by the Board as the exclusive representative of the unit of child  
20 care providers. In any election in which there are three or more choices,  
21 including the choice of “no union,” and none of the choices on the ballot

1 receive a majority, a runoff election shall be conducted by the Board. The  
2 ballot shall provide for a selection between the two choices receiving the  
3 largest and second largest number of valid votes cast in the election.

4 (b) An election shall not be directed during the term of a negotiated  
5 agreement or if, in the preceding twelve months, a valid election has been held.

6 § 3608. POWERS OF REPRESENTATIVES

7 The exclusive representative certified by the Board shall be the exclusive  
8 representative of all the child care providers in the unit for the purposes of  
9 collective bargaining as defined in this chapter. However, any individual child  
10 care provider or group of child care providers shall have the right at any time  
11 to present grievances to the State and to have such grievances adjusted, without  
12 the intervention of the bargaining representative, as long as the adjustment is  
13 not inconsistent with the terms of a collective bargaining agreement then in  
14 effect and provided that the bargaining representative has been given an  
15 opportunity to be present at such adjustment.

16 § 3609. GRIEVANCE PROCEDURES; BINDING ARBITRATION

17 The State and the exclusive representative shall negotiate a procedure for  
18 resolving complaints and grievances. A collective bargaining agreement may  
19 provide for binding arbitration as the final step of a grievance procedure.

1     § 3610. MEDIATION; FACT-FINDING; LAST BEST OFFER

2           (a) If after a reasonable period of negotiation, the exclusive representative  
3           and the State reach an impasse, the Board, upon petition of either party, may  
4           authorize the parties to submit their differences to mediation. Within five days  
5           after receipt of the petition, the Board shall appoint a mediator who shall  
6           communicate with the parties and attempt to mediate an amicable settlement.  
7           A mediator shall be of high standing.

8           (b) If, after a minimum of 15 days after the appointment of a mediator, the  
9           impasse is not resolved, the mediator shall certify to the Board that the impasse  
10           continues.

11           (c) Upon the request of either party the Board shall appoint a fact finder  
12           who has been mutually agreed upon by the parties. If the parties fail to agree  
13           on a fact finder within five days, the Board shall appoint a fact finder who shall  
14           be a person of high standing. A member of the Board or any individual who  
15           has actively participated in mediation proceedings for which fact-finding has  
16           been called shall not be eligible to serve as a fact finder under this section  
17           unless agreed upon by the parties.

18           (d) The fact finder shall conduct hearings pursuant to rules of the Board.  
19           Upon request of either party or of the fact finder, the Board may issue  
20           subpoenas of persons and documents for the hearings and the fact finder may  
21           require that testimony be given under oath and may administer oaths.

1       (e) Nothing in this section shall prohibit the fact finder from mediating the  
2 dispute at any time prior to issuing recommendations.

3       (f) The fact finder shall consider factors related to the scope of bargaining  
4 contained in this chapter in making a recommendation.

5       (g) Upon completion of the hearings, the fact finder shall file written  
6 findings and recommendations with both parties.

7       (h) The costs of witnesses and other expenses incurred by either party in  
8 fact-finding proceedings shall be paid directly by the parties incurring them,  
9 and the costs and expenses of the fact finder shall be paid equally by the  
10 parties. The fact finder shall be paid a rate mutually agreed upon by the parties  
11 for each day or any part of a day while performing fact-finding duties and shall  
12 be reimbursed for all reasonable and necessary expenses incurred in the  
13 performance of his or her duties. A statement of fact-finding per diem and  
14 expenses shall be certified by the fact finder and submitted to the Board for  
15 approval. The Board shall provide a copy of approved fact-finding costs to  
16 each party with its order apportioning half of the total to each party for  
17 payment. Each party shall pay its half of the total within 15 days after receipt  
18 of the order. Approval by the Board of fact-finding and the fact finder's costs  
19 and expenses and its order for payment shall be final as to the parties.

20       (i) If the dispute remains unresolved 15 days after transmittal of findings  
21 and recommendations, each party shall submit to the Board its last best offer

1 on all disputed issues as a single package. Each party's last best offer shall be  
2 certified to the Board by the fact finder. The Board may hold hearings and  
3 consider the recommendations of the fact finder. Within 30 days of the  
4 certifications, the Board shall select between the last best offers of the parties,  
5 considered in their entirety without amendment, and shall determine its cost.  
6 The Board shall not issue an order under this subsection that is in conflict with  
7 any law or rule or that relates to an issue that is not subject to collective  
8 bargaining. The decision of the Board shall be final and binding on the parties.

9 § 3611. GENERAL DUTIES AND PROHIBITED CONDUCT

10 (a) The State and all child care providers and their representatives shall  
11 exert every reasonable effort to make and maintain agreements concerning  
12 matters allowable under this chapter and to settle all disputes, whether arising  
13 out of the application of those agreements or growing out of any disputes  
14 concerning those agreements. All disputes arising under the collective  
15 bargaining agreement between child care providers and the State shall, upon  
16 the request of either party, be considered within 15 days of the request or at  
17 such times as may be mutually agreed to and, if possible, settled with all  
18 expedition in conference between representatives designated and authorized to  
19 confer by the State or by the child care providers interested in the dispute.  
20 However, this obligation does not compel either party to agree to a proposal or  
21 make a concession.

1           **(b) The State shall not:**

2                   **(1) interfere with, restrain, or coerce child care providers in the exercise**  
3 **of their rights under this chapter or by any other law, rule, or regulation;**

4                   **(2) discriminate against a child care provider because of the child care**  
5 **provider's affiliation with a labor organization or because a child care provider**  
6 **has filed charges or complaints or has given testimony under this chapter;**

7                   **(3) take negative action against a child care provider because the child**  
8 **care provider has taken actions such as signing a petition, grievance, or**  
9 **affidavit that demonstrate the child care provider's support for a labor**  
10 **organization;**

11                   **(4) refuse to bargain collectively in good faith with the exclusive**  
12 **representative or to abide by any agreement reached;**

13                   **(5) discriminate against a child care provider based on race, color, creed,**  
14 **religion, age, disability, sex, sexual orientation, gender identity, or national**  
15 **origin; or**

16                   **(6) request or require a child care provider to have an HIV-related blood**  
17 **test or discriminate against a child care provider on the basis of HIV status of a**  
18 **child care provider.**

19           **(c) A child care provider or the exclusive representative and its agents shall**  
20 **not:**

1           (1) strike or recognize a picket line of any employee or labor  
2           organization while in the performance of his or her official duties;

3           (2) restrain or coerce child care providers in the exercise of the rights  
4           guaranteed to them by law, rule, or regulation. However, a labor organization  
5           may prescribe its own rules with respect to the acquisition or retention of  
6           membership provided such rules are not discriminatory;

7           (3) cause or attempt to cause the State to discriminate against a child  
8           care provider in violation of this chapter or to discriminate against a child care  
9           provider with respect to whom membership in such organization has been  
10          denied or terminated on some ground other than failure to tender the periodic  
11          dues and the initiation fees uniformly required as a condition for acquiring or  
12          retaining membership; or

13          (4) refuse to bargain collectively in good faith with the State.

14          (d) Complaints related to this section shall be made and resolved in  
15          accordance with procedures set forth in 21 V.S.A. §§ 1622 and 1623.

16          § 3612. GENERAL PROVISIONS

17          (a) Cost items agreed upon in collective bargaining between the parties  
18          must be submitted for inclusion in the Governor's next operating budget within  
19          10 days after the date on which an agreement is executed by the parties. If the  
20          General Assembly rejects any of the cost items submitted to it, all cost items  
21          submitted shall be returned to the parties for further bargaining. If the General

1 Assembly appropriates sufficient funds, the agreement shall become effective  
2 at the beginning of the next fiscal year. If the General Assembly appropriates a  
3 different amount of funds, the terms of the agreement affected by that  
4 appropriation shall be renegotiated based on the amount of funds actually  
5 appropriated, and the agreement with the negotiated changes shall become  
6 effective at the beginning of the next fiscal year.

7 (b) Activities of child care providers and their exclusive representatives  
8 which are authorized by this chapter shall be afforded state action immunity  
9 under applicable federal and state antitrust laws. The State intends that the  
10 “state action” exemption to federal antitrust laws be fully available to the State,  
11 to child care providers, and to their exclusive representative and that exempt  
12 conduct shall be actively supervised by the State.

13 § 3613. RIGHTS UNALTERED

14 (a) This chapter does not alter or infringe upon the rights of:

15 (1) a parent or legal guardian to select and discontinue child care  
16 services of any child care provider;

17 (2) a parent or legal guardian to negotiate child care services not  
18 regulated by the State;

19 (3) a child care provider to choose, direct, and terminate the services of  
20 any employee that provides care in that home; or



1           (4) the Judiciary and General Assembly to make programmatic  
2           modifications to the delivery of state services through child care subsidy  
3           programs, including standards of eligibility for families, legal guardians, and  
4           child care providers participating in child care subsidy programs, and the  
5           nature of services provided.

6           (b) Nothing in this chapter shall affect the rights and obligations of private  
7           sector employers and employees under the National Labor Relations Act,  
8           29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A.  
9           § 1501, et seq. The terms and conditions of employment at individual centers,  
10           which are the subjects of traditional collective bargaining between employers  
11           and their employees and which are governed by federal laws, fall outside the  
12           limited scope of bargaining defined in this chapter.

13           § 3614. SEVERABILITY

14           If any of the provisions of this chapter or its application is held invalid as it  
15           relates to state law or federal law or federal funding requirements, the  
16           invalidity shall not affect other provisions of this chapter which can be given  
17           effect without the invalid provision or application, and to this end, the  
18           provisions of this chapter are severable.

1       Sec. 3. 33 V.S.A. chapter 36A is added to read:

2                   Chapter 36A. EXTENDING NEGOTIATING RIGHTS TO  
3                                   CENTER-BASED PROVIDERS

4       § 3621. PURPOSE

5           The purpose of this chapter is to establish a pilot project to allow child care  
6       providers at child care centers meeting the criteria set forth in this chapter to  
7       negotiate with the State over specific issues set forth in this chapter.

8       § 3622. DEFINITIONS

9           As used in this chapter:

10           (1) “Board” means the State Labor Relations Board established in  
11       3 V.S.A. § 921.

12           (2) “Center-based providers” means staff and program directors at child  
13       care facilities. Included in this definition are private child care centers and  
14       their employees under contract pursuant to 16 V.S.A. § 829 with a school  
15       district to provide prekindergarten child care services. Excluded from this  
16       definition are employees of a school district as defined by 16 V.S.A. § 11(10),  
17       employees of an independent school as defined by 16 V.S.A. § 11(8),  
18       employees of a supervisory union as defined by 16 V.S.A. § 11(23), and  
19       employees of licensed after-school programs offered by a school district or an  
20       independent school.

1           (3) “Center-based providers agreement” means a legally binding  
2           negotiated agreement that promotes access to high-quality early childhood  
3           education and care for Vermont’s children and families and improves the  
4           quality of child care services.

5           (4) “Center-based providers organization” means the organization  
6           selected by staff and program directors to negotiate, execute, and administer a  
7           center-based providers agreement with the Department.

8           (5) “Child care center” means a child care facility licensed by the  
9           Department for Children and Families which receives child care subsidies. It  
10           does not include child care centers which are:

11                   (A) operated directly by another unit of government;

12                   (B) operated by an individual, partnership, profit or nonprofit  
13           corporation, or other entity that operates ten or more child care centers  
14           statewide;

15                   (C) operated by a local nonprofit organization whose primary  
16           mission is to provide social services, including serving children and families,  
17           and that pays membership dues or assessment to either:

18                           (i) a national organization exempt from income tax under section  
19           501(c)(3) of the Internal Revenue Code with more than \$3 million in  
20           membership dues and assessments annually, as reported to the Internal  
21           Revenue Service; or

1           (ii) a regional council that is affiliated with a national organization  
2 exempt from income tax under section 501(c)(3) of the Internal Revenue Code  
3 with more than two hundred affiliates.

4           (D) a private corporation or public agency designated as a  
5 community action agency by the Director of the Community Services  
6 Administration and established pursuant to the Economic Opportunity Act of  
7 1964, Pub. L. 88-452, which is authorized to administer funds received from  
8 federal, state, local, or private funding entities to assess, design, operate,  
9 finance, and oversee antipoverty programs; or

10           (E) funded by the Head Start program administered by the  
11 Department of Health and Human Services pursuant to 42 U.S.C. 9801, et seq.

12           (6) “Commissioner” means the Commissioner of the Department for  
13 Children and Families or designee.

14           (7) “Department” means the Department for Children and Families.

15           (8) “Participating child care centers” means child care centers which  
16 meet the criteria set forth in section 3623(a) of this chapter.

17           (9) “Program directors” means persons managing the program design  
18 and curriculum at licensed child care facilities which are eligible to receive  
19 child care subsidies.

20           (10) “Staff” means persons who have direct responsibility for the care  
21 and education of children or the operation of a program for the care and

1 education of children at licensed child care facilities which receive child care  
2 subsidies.

3 (11) "Subsidies" means payments made by the State to assist in the  
4 provision of child care services through the State's child care financial  
5 assistance programs.

6 § 3623. CENTER-BASED PROVIDERS; NEGOTIATION WITH THE  
7 DEPARTMENT

8 (a) Center-based providers shall have the right to form, join, and participate  
9 in the activities of a center-based providers organization of their own choosing  
10 for the purpose of representation and good faith negotiations with the  
11 Department to reach an agreement to improve the delivery and quality of early  
12 education and care over those subjects specified in section 3625 of this title if  
13 the following conditions are met:

14 (1) a majority of child care providers at that child care center authorize  
15 representation by the providers organization; and

16 (2) the owner or program director at that child care center authorizes  
17 representation.

18 (b) The center-based providers at participating child care centers shall  
19 become the group authorized to select representation by a center-based  
20 providers organization for purposes of negotiating a binding center-based

1 providers agreement with the Department. Negotiations with the State shall  
2 commence 90 days from the effective date of this chapter.

3 (c) The Commissioner is authorized to negotiate and agree to terms of a  
4 center-based providers agreement. The Commissioner shall negotiate with the  
5 center-based providers organization designated by the majority of the  
6 center-based child care providers authorized to select representation under this  
7 chapter.

8 (d) During the period beginning 120 days prior to the expiration of the  
9 center-based providers agreement and ending on the date of expiration, the  
10 center-based providers at a child care center may select to be represented by  
11 the center-based providers organization and therefore to be covered by the  
12 center-based providers agreement. During this same time period a  
13 participating child care center may select to be no longer included for both  
14 representation and inclusion in the center-based agreement.

15 § 3624. NEGOTIATION OF A CENTER-BASED PROVIDERS

16 AGREEMENT

17 (a) Negotiations of a center-based providers agreement between the  
18 Commissioner and the center-based providers organization shall include those  
19 subjects set forth in subsection 3603(b) of this title. This agreement shall only  
20 be applicable to those centers that are participating pursuant to section 3623 of  
21 this title.

1       (b) The center-based providers organization and the Commissioner shall  
2       use the expertise of the Board to assist in the process of mediation,  
3       fact-finding, and last best offer and shall draw upon the applicable procedures  
4       set forth in section 3610 of this title.

5       § 3625. COST ITEMS TO BE SUBMITTED TO GENERAL ASSEMBLY

6       The center-based providers agreement reached between the Commissioner  
7       and the center-based providers organization shall be submitted to the  
8       Governor, who shall request sufficient funds from the General Assembly to  
9       implement the agreement. If the General Assembly rejects any of the cost  
10       items submitted to it, all the cost items shall be returned to the Commissioner  
11       and the center-based providers organization for further negotiations. If the  
12       General Assembly appropriates sufficient funds, the center-based providers  
13       agreement shall become effective at the beginning of the next fiscal year. If  
14       the General Assembly appropriates a different amount of funds, the terms of  
15       the center-based providers agreement affected by that appropriation shall be  
16       renegotiated based on the amount of funds actually appropriated, and the new  
17       center-based providers agreement shall become effective at the beginning of  
18       the next fiscal year.

19       § 3626. DISPUTE RESOLUTION

20       The center-based providers agreement shall contain a process for dispute  
21       resolution. The agreement may provide for binding arbitration as a final step.

1     § 3627. ANTITRUST EXEMPTION

2         The activities of the Commissioner and the Department and the  
3         center-based providers and their center-based providers organization that are  
4         necessary for the exercise of their rights under this chapter shall be afforded  
5         state action immunity under applicable state and federal antitrust laws. The  
6         State intends that the “state action” exemption to federal antitrust laws be  
7         available only to the Commissioner and the Department and to the  
8         center-based child care providers and their center-based providers organization  
9         in connection with these necessary activities. The exempt activities shall be  
10        actively supervised by the State.

11     § 3628. RIGHTS UNALTERED

12        (a) This chapter does not alter or infringe upon the rights of:

13            (1) a parent or legal guardian to select, discontinue, or negotiate terms of  
14            child care services; or

15            (2) the General Assembly and the Judiciary to make modifications to the  
16            delivery of state services through child care subsidy programs, including  
17            eligibility standards for families, legal guardians, and child care providers  
18            participating in child care subsidy programs and the nature of the services  
19            provided.

20        (b) Nothing in this chapter shall affect the rights and obligations of private  
21        sector employees and employers under the National Labor Relations Act.



1 29 U.S.C. § 151, et seq., or the Vermont State Labor Relations Act, 21 V.S.A.  
2 § 1501, et seq. The terms and conditions of employment with individual child  
3 care providers, which are the subjects of traditional collective bargaining  
4 between employers and their employees and are governed by federal law, fall  
5 outside the limited scope of bargaining defined in this chapter.

6 § 3629. SEVERABILITY

7 If any of the provisions of this chapter or its application is held invalid as it  
8 relates to state law, federal law, or federal funding requirements, the invalidity  
9 shall not affect other provisions of this chapter which can be given effect  
10 without the invalid provision or application, and, to this end, the provisions of  
11 this chapter are severable.

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect upon passage.