

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; prekindergarten education and child development  
4 programs

5 Statement of purpose of bill as introduced: This bill proposes to: (1) facilitate  
6 the ability of families to enroll a child, who is three or four years of age or is  
7 five years of age but is not yet enrolled in kindergarten, in a public  
8 prekindergarten education program or a private high-quality child development  
9 program; and (2) clearly establish the responsibility for regulatory oversight of  
10 public prekindergarten education programs and private high-quality child  
11 development programs.

12 An act relating to prekindergarten education and child development  
13 programs

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

15 \* \* \* Prekindergarten Education \* \* \*

16 Sec. 1. REPEAL

17 16 V.S.A. § 829 (prekindergarten education) is repealed.

18 Sec. 2. 16 V.S.A. § 829 is added to read:

19 § 829. PREKINDERGARTEN EDUCATION

20 (a) Policy.

1       (1) It is the policy of the State of Vermont to facilitate the ability of families to  
2       enroll a child, who is three or four years of age or is five years of age but is not  
3       yet enrolled in kindergarten (eligible child), in a prekindergarten education  
4       program or a high-quality child development program. Accordingly, under the  
5       provisions of this section, a parent or guardian may choose to enroll an eligible  
6       child at no cost in a public school of residence if the public school offers a  
7       prekindergarten education program, or may choose to enroll an eligible child in  
8       a public school in another school district that offers a prekindergarten  
9       education program if space is available in that program. A parent may also,  
10       under the provisions of 33 V.S.A. chapter 35, subchapter 5, choose to enroll an  
11       eligible child in a high-quality child development program operated by a  
12       private provider that is licensed or registered by the Department for Children  
13       and Families, and depending on the family’s income level, may be eligible for  
14       a subsidy to cover part or all of the cost of the program. A high-quality child  
15       development program is a program operated by a private provider that has  
16       received at least four stars in the Department for Children and Families’ Step  
17       Ahead Recognition System (STARS) with at least two points in each of the  
18       five arenas or three stars in the STARS system if the provider has developed a  
19       plan, approved by the Commissioner for Children and Families, to achieve four  
20       or more stars in no more than two years with at least two points in each of the  
21       five arenas, and the provider has met intermediate milestones.

1           (2) A public school that offers prekindergarten education shall be  
2           subject to the oversight by the State Board of Education and the Agency of  
3           Education, and rules adopted by the State Board.

4           (3) A private provider of a high-quality child development program  
5           shall be subject to the oversight and rules adopted by the Department for  
6           Children and Families.

7           (b) Definitions. As used in this section:

8           (1) “Eligible child” means a child who, as of the date established by the  
9           district of residence for kindergarten eligibility, is three or four years of age or  
10          is five years of age but is not yet enrolled in kindergarten.

11          (2) “Prekindergarten education” means services designed to provide to  
12          an eligible child developmentally appropriate early development and learning  
13          experiences based on Vermont’s early learning standards.

14          (c) Prekindergarten education programs.

15          (1) A public school may offer a prekindergarten education program in  
16          accordance with this section. A public school is not required to offer a  
17          prekindergarten education program.

18          (2) If a public school offers a prekindergarten education program, the  
19          following provisions shall apply:

20                (A) the public school shall:

1                    (i) comply with applicable rules adopted by the State Board of  
2                    Education; and

3                    (ii) enroll nonresident eligible children in its prekindergarten  
4                    education program on a space-available basis, and shall:

5                    (I) define and announce its capacity to accept nonresident  
6                    eligible children under this section; and

7                    (II) devise a nondiscriminatory lottery system for determining  
8                    which nonresident eligible children may enroll if more than the number of  
9                    nonresident eligible children for whom the school has capacity wish to enroll;

10                  (B) the school district in which the public school operates shall:

11                  (i) comply with applicable rules adopted by the State Board of  
12                  Education;

13                  (ii) include any costs of prekindergarten education in its annual  
14                  budget presented to the voters, including all costs incurred by the school  
15                  district from prekindergarten education services provided under contract to the  
16                  school district; and

17                  (iii) pursuant to subdivision 4001(1) of this title, include within its  
18                  average daily membership any eligible child for whom it has provided  
19                  prekindergarten education.

20                  (d) The Secretary of Education shall oversee the operation of  
21                  prekindergarten programs in conformity with this section, and the Board of

1 Education shall adopt corresponding rules under 3 V.S.A. chapter 25, which  
2 shall include rules:

3 (1) To require that a school district in which a public school operates a  
4 prekindergarten education program provides opportunities for effective  
5 parental participation in the program.

6 (2) To establish processes and requirements to facilitate the ability of a  
7 parent or guardian to enroll a nonresident eligible child in a public school that  
8 offers prekindergarten education on a space-available basis under subdivision  
9 (c)(2)(A)(ii) of this section, including rules concerning:

10 (A) how to define capacity;

11 (B) the establishment of a lottery system;

12 (C) the application process and any required notifications;

13 (D) continued enrollment for nonresident eligible children who have  
14 been previously enrolled by the school; and

15 (E) the provision of special education services.

16 (3) To require a school district in which a public school operates a  
17 prekindergarten education program to include identifiable costs for  
18 prekindergarten education programs and essential early education services in  
19 its annual budgets and reports to the community.

1           (4) To require a school district in which a public school operates a  
2           prekindergarten education program to report to the Agency of Education  
3           annual expenditures made in support of prekindergarten education.

4           (5) To establish a system by which the Agency of Education shall  
5           monitor and evaluate prekindergarten education programs to promote optimal  
6           results for children that support the relevant population-level outcomes set  
7           forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions.  
8           The Agency shall be required to report annually to the General Assembly in  
9           January. At a minimum, the system shall monitor and evaluate:

10           (A) programmatic details, including the number of children served,  
11           the number public programs operated, and the public financial investment  
12           made to ensure access to prekindergarten education;

13           (B) the quality of public prekindergarten education programs and  
14           efforts to ensure continuous quality improvements through mentoring, training,  
15           technical assistance, and otherwise; and

16           (C) the results for children, including school readiness and  
17           proficiency in numeracy and literacy.

18           (6) To establish a process for documenting the progress of children  
19           enrolled in prekindergarten education programs and to require a school district  
20           in which a public school operates a prekindergarten education program to use  
21           the process to:

1           (A) help individualize instruction and improve program practice; and

2           (B) collect and report child progress data to the Secretary of

3           Education on an annual basis.

4           (e) Nonapplicability of other laws. The provisions of subsections 824(b) and

5           (c) (amount of tuition), 825(b) and (c) (maximum tuition rate), and 826(a)

6           (notice of tuition change) and section 836 (tuition overcharge and undercharge)

7           of this chapter shall not apply to enrollment in a prekindergarten program

8           pursuant to this section.

9           Sec. 3. 16 V.S.A. § 11 is amended to read:

10          § 11. CLASSIFICATIONS AND DEFINITIONS

11          (a) As used in this title, unless the context otherwise clearly requires:

12                                       \* \* \*

13                  (3) “Elementary education” means a program of public school education  
14 adapted to the needs of students in ~~prekindergarten~~, kindergarten, and the first  
15 six grades.

16                                       \* \* \*

17          Sec. 4. 16 V.S.A. § 4001 is amended to read:

18          § 4001. DEFINITIONS

19          As used in this chapter:

1           (1) “Average daily membership” of a school district, or if needed in  
2 order to calculate the appropriate homestead tax rate, of the municipality as  
3 defined in 32 V.S.A. § 5401(9), in any year means:

4           (A)(i) The full-time equivalent enrollment of students, as defined by  
5 the State Board by rule, who are legal residents of the district or municipality  
6 attending a school owned and operated by the district, attending a public  
7 school outside the district under section 822a of this title, or for whom the  
8 district pays tuition to one or more approved independent schools or public  
9 schools outside the district during the annual census period.

10           (ii) The full-time equivalent enrollment of a prekindergarten  
11 student who, during the annual census period, is a legal resident of one school  
12 district but attends a prekindergarten program in another school district under  
13 section 829 of this title, with the district of residence and the district that is  
14 providing the prekindergarten program to the student each receiving credit for  
15 one-half of the full-time equivalent enrollment of the student.

16           (iii) ~~The~~ As used in subdivisions (A)(i) and (ii) of this section, the  
17 census period consists of the 11th day through the 30th day of the school year  
18 in which school is actually in session.

19   \* \* \*

20           (C) The full-time equivalent enrollment for each prekindergarten  
21 child as follows: If a child is enrolled in 10 or more hours of prekindergarten



1 education per week or receives 10 or more hours of essential early education  
2 services per week, the child shall be counted as one full-time equivalent pupil.  
3 If a child is enrolled in six or more but fewer than 10 hours of prekindergarten  
4 education per week or if a child receives fewer than 10 hours of essential early  
5 education services per week, the child shall be counted as a percentage of one  
6 full-time equivalent pupil, calculated as one multiplied by the number of hours  
7 per week divided by ten. A child enrolled in prekindergarten education for  
8 fewer than six hours per week shall not be included in the district's average  
9 daily membership. There is no limit on the total number of children who may  
10 be enrolled in prekindergarten education or who receive essential early  
11 education services.

12 \* \* \*

13 Sec. 5. 16 V.S.A. § 4010 is amended to read:

14 § 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

15 (a) On or before the first day of December during each school year, the  
16 Secretary shall determine the average daily membership of each school district  
17 for the current school year. The determination shall list separately:

18 (1) ~~resident~~ prekindergarten children;

19 (2) resident students being provided elementary or kindergarten  
20 education; and

21 (3) resident students being provided secondary education.

1 (b) The Secretary shall determine the long-term membership for each  
2 school district for each student group described in subsection (a) of this  
3 section. The Secretary shall use the actual average daily membership over two  
4 consecutive years, the latter of which is the current school year.

5 (c) The Secretary shall determine the weighted long-term membership for  
6 each school district using the long-term membership from subsection (b) of  
7 this section and the following weights for each class:

8 Prekindergarten 0.46

9 Elementary or kindergarten 1.0

10 Secondary 1.13

11 \* \* \*

12 \* \* \* Child Development Programs \* \* \*

13 Sec. 6. 33 V.S.A. chapter 35, subchapter 5 is added to read:

14 Subchapter 5. Child Development Programs

15 § 3541. POLICY

16 It is the policy of the State of Vermont that the regulation and oversight of  
17 prekindergarten education fall within the jurisdiction of the State Board of  
18 Education and Agency of Education under 16 V.S.A. § 829. An eligible child  
19 may enroll in a prekindergarten education program operated by a public school  
20 or may enroll in a high-quality child development program operated by a

1 center-based child care program pursuant to this subchapter and corresponding  
2 rules.

3 § 3542. DEFINITIONS

4 As used in this subchapter:

5 (1) “Center-based child care program” means a program and facility  
6 approved to provide developmentally appropriate care, education, protection,  
7 and supervision of children and is designed to ensure wholesome growth and  
8 educational experiences for children outside of their home for periods of less  
9 than 24 hours per day.

10 (2) “Child development program” means a developmentally appropriate early  
11 learning program for eligible children operated by a center-based child care  
12 program that has received at least four stars in the STARS system with at least  
13 two points in each of the five arenas or three stars in the STARS system if the  
14 provider has developed a plan, approved by the Commissioner for Children  
15 and Families, to achieve four or more stars in no more than two years with at  
16 least two points in each of the five arenas, and the provider has met  
17 intermediate milestones.

18 (3) “Eligible child” has the same meaning as defined under 16 V.S.A.  
19 § 829.

20 (4) “Prekindergarten education” has the same meaning as defined under  
21 16 V.S.A. § 829.

1           (5) “STARS” means the Step Ahead Recognition System administered  
2           by the Department for Children and Families.

3           § 3543. CHILD DEVELOPMENT PROGRAM

4           (a) Creation of child development program. A child development program  
5           is established to provide high-quality, developmentally appropriate early  
6           learning opportunities to eligible children. A parent or guardian may choose to  
7           enroll an eligible child in a child development program under this subchapter  
8           or a prekindergarten education program offered by a public school under  
9           16 V.S.A. § 829, or neither.

10          (b) Operation and oversight of child development program. A center-based  
11          child care program may operate a child development program. The  
12          Department’s Child Development Division shall regulate and oversee the  
13          operation of a child development program in conformity with this subchapter  
14          and corresponding rules.

15          (c) Child development program subsidy. Notwithstanding section 3512 of  
16          this chapter and to the extent funds permit, an eligible child enrolled in a child  
17          development program may qualify for a subsidy at market rate on a sliding  
18          scale basis. The scale shall be established by the Commissioner by rule, and  
19          shall bear a reasonable relationship to household income and family size. The  
20          lower limit of the fee scale shall include families whose gross income is up to  
21          and including 200 percent of the federal poverty guidelines. The upper income

1 limit of the fee scale shall be four times Vermont’s median household income,  
2 as published by the U.S. Census Bureau under American Community Survey  
3 5-Year Estimates.

4 (d) Funding for child development program subsidy. The sum of  
5 [\$\_\_\_\_\_] is appropriated from the General Fund for fiscal year 2018 to the  
6 Department for Children and Families for the purpose of providing funding for  
7 the child development program subsidy under subsection (c) of this section,  
8 which the Department shall administer in accordance with this section, and any  
9 unused funds shall revert to the General Fund.

10 Sec. 7. RULEMAKING; DEPARTMENT FOR CHILDREN AND  
11 FAMILIES

12 The Commissioner for Children and Families shall amend the Department’s  
13 rules on center-based child care and preschool programs pursuant to 3 V.S.A.  
14 chapter 25. The amended rules shall establish the requirements for child  
15 development programs in conformity with 33 V.S.A. chapter 35, subchapter 5,  
16 including curriculum and teaching qualifications that that are substantially  
17 similar to those required by prekindergarten education programs. The  
18 amended rules shall not include oversight or regulation of prekindergarten  
19 education programs by the Department. The amended rules shall:

20 (1) Require a child development program to report to the Department  
21 annual expenditures made in support of providing child development services.

1           (2) Establish a system by which the Department shall monitor and  
2           evaluate child development programs to promote optimal results for children  
3           that support the relevant population-level outcomes set forth in 3 V.S.A.  
4           § 2311 and to collect data that will inform future decisions. The Department  
5           shall be required to report annually to the General Assembly in January. At a  
6           minimum, the system shall monitor and evaluate:

7                   (A) programmatic details, including the number of children served,  
8                   the number child development programs operated, and the public financial  
9                   investment made to ensure access to child development programs;

10                   (B) the quality of child development programs and efforts to ensure  
11                   continuous quality improvements through mentoring, training, technical  
12                   assistance, and otherwise; and

13                   (C) the results for children, including school readiness and  
14                   proficiency in numeracy and literacy.

15           (3) Establish a process for documenting the progress of children  
16           enrolled in child development programs and to require child development  
17           programs to use the process to:

18                   (A) help individualize instruction and improve program practice; and

19                   (B) collect and report child progress data to the Department on an  
20           annual basis.

21           Sec. 8. 16 V.S.A. § 4025 is amended to read:

1 § 4025. EDUCATION FUND

2 (a) An Education Fund is established to comprise the following:

3 (1) All revenue paid to the State from the statewide education tax on  
4 nonresidential and homestead property under 32 V.S.A. chapter 135.

5 (2) For each fiscal year, the amount of the general funds appropriated  
6 and transferred to the Education Fund shall be \$305,900,000.00, to be  
7 increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal  
8 Office and Administration determination of the National Income and Product  
9 Accounts (NIPA) Implicit Price Deflator for State and Local Government  
10 Consumption Expenditures and Gross Investment as reported by the U.S.  
11 Department of Commerce, Bureau of Economic Analysis through the fiscal  
12 year for which the payment is being determined, plus an additional one-tenth  
13 of one percent.

14 ~~(3) Revenues from State lotteries under 31 V.S.A. chapter 14, and from~~  
15 ~~any multijurisdictional lottery game authorized under that chapter. [Repealed.]~~

16 \* \* \*

17 Sec. 9. 31 V.S.A. § 654 is amended to read:

18 § 654. POWERS AND DUTIES

19 The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25,  
20 governing the establishment and operation of the State Lottery. The rules may  
21 include the following:

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\* \* \*

(11) Apportionment of total revenues, within limits hereinafter specified, accruing to the State Lottery Fund among:

(A) the payment of prizes to winning ticket holders;

(B) the payment of all costs incurred in the creation, operation, and administration of the lottery, including compensation of the Commission, Director, employees, consultants, contractors, and other necessary expenses;

(C) the repayment of monies advanced to the State Lottery Fund for initial funding of the lottery;

(D) the transfer of monies to the ~~Education~~ General Fund established by ~~16 V.S.A. § 4025~~, to be used solely for the purposes of ~~State and local funding of public education~~ funding the child development subsidy under 33 V.S.A. chapter 35, subchapter 5.

\* \* \* Effective Date \* \* \*

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2017.