

1 Subject: Education; prekindergarten education

2 Statement of purpose of bill as introduced: This bill proposes to (i) eliminate  
3 joint administration by the Agency of Education and the Agency of Human  
4 Services of prekindergarten programs and designate the Agency of Education  
5 as the lead agency; (ii) centralize the prekindergarten accounting and  
6 contracting functions by moving these functions from school districts to the  
7 Agency of Education; and (iii) simplify and clarify the quality criteria for  
8 prekindergarten providers.

9 An act relating to prekindergarten education

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

11 Sec. 1. 16 V.S.A. § 829 is amended to read:

12 § 829. PREKINDERGARTEN EDUCATION

13 (a) Definitions. As used in this section:

14 (1) “Prekindergarten child” means a child who, as of the date  
15 established by the district of residence for kindergarten eligibility, is;

16 (A) three or four years of age or is five years of age but is not yet  
17 eligible to be enrolled in kindergarten; or

18 (B) if the child is on an individualized education program, five years  
19 of age but is not yet enrolled in kindergarten.

1 (2) “Prekindergarten education” means services designed to provide to  
2 prekindergarten children developmentally appropriate early development and  
3 learning experiences based on Vermont’s early learning standards.

4 (3) “~~Prequalified private~~ Private provider” means a private provider of  
5 prekindergarten education that is ~~qualified pursuant to subsection (c) of this~~  
6 ~~section~~ regulated as a center-based child care program or family child care  
7 home to provide child care by the Child Development Division of the  
8 Department for Children and Families.

9 (4) “Public provider” means a provider of prekindergarten education  
10 that is a school district.

11 (b) Access to publicly funded prekindergarten education.

12 (1) ~~No~~ Not fewer than ten hours per week of publicly funded  
13 prekindergarten education shall be available for 35 weeks annually to each  
14 prekindergarten child whom a parent or guardian wishes to enroll in an  
15 available, ~~prequalified~~ prekindergarten education program ~~operated by a public~~  
16 ~~school or a private provider.~~

17 (2) If a parent or guardian chooses to enroll a prekindergarten child in  
18 an available, ~~prequalified~~ prekindergarten education program, then, pursuant to  
19 the parent or guardian’s choice, the ~~school district of residence~~ Secretary shall:

20 (A) ~~pay tuition pursuant to subsections (d) and (h)~~ subsection (d) of  
21 this section upon the request of the parent or guardian to:

1            ~~(i)(A)~~ a ~~prequalified~~ private provider located in Vermont; or

2            ~~(ii)(B)~~ a Vermont public school that operates a prekindergarten  
3 education program whether located inside or outside the district ~~that operates a~~  
4 ~~prekindergarten program that has been prequalified pursuant to subsection (e)~~  
5 ~~of this section; or~~

6            ~~(B)~~ ~~enroll the child in the prekindergarten education program that it~~  
7 ~~operates~~ in which the child resides.

8            (3) ~~If requested by the parent or guardian of a prekindergarten child, the~~  
9 ~~school district of residence shall pay tuition to a prequalified program operated~~  
10 ~~by a private provider or a public school in another district even if the district of~~  
11 ~~residence operates a prekindergarten education program.~~

12            ~~(4) If the supply of prequalified private and public providers is~~  
13 ~~insufficient to meet the demand for publicly funded prekindergarten education~~  
14 ~~in any region of the State, nothing~~ Nothing in this section shall be construed to  
15 require the State or a district to begin or expand a prekindergarten education  
16 program to satisfy that demand; but rather, in collaboration with the Agencies  
17 of Education and of Human Services, the local Building Bright Futures  
18 Council shall meet with school districts and private providers in the region to  
19 develop a regional plan to expand capacity for prekindergarten education.

20            (c) ~~Prequalification. Pursuant to rules jointly developed and overseen by~~  
21 ~~the Secretaries of Education and of Human Services and adopted by the State~~

1 Board pursuant to ~~3 V.S.A. chapter 25, the Agencies jointly may determine~~  
2 ~~that a private or public provider of prekindergarten education is qualified for~~  
3 ~~purposes of this section and include the provider in a publicly accessible~~  
4 ~~database of prequalified providers. At a minimum, the rules shall define the~~  
5 ~~process by which a provider applies for and maintains prequalification status,~~  
6 ~~shall identify the minimum quality standards for prequalification, and shall~~  
7 ~~include the following requirements~~ Provider qualification. In order to be  
8 eligible for tuition payments:

9 (1) ~~A program of prekindergarten education, whether provided by a~~  
10 ~~school district or a private provider, shall have received~~ private provider shall  
11 meet minimum program quality by:

12 (A) having National Association for the Education of Young  
13 Children (NAEYC) accreditation; or

14 (B) at least four stars in the Department for Children and Families'  
15 STARS system ~~with a plan to get to at least two points in each of the five~~  
16 ~~arenas; or~~ and

17 (C) ~~three stars in the STARS system if the provider has developed a~~  
18 ~~plan, approved by the Commissioner for Children and Families and the~~  
19 ~~Secretary of Education, to achieve four or more stars with at least two points in~~  
20 ~~each of the five arenas in no more than three years, and the provider has met~~  
21 ~~intermediate milestones~~

1           (B)(i) for a private provider that is regulated as a center-based child  
2 care program, employing or contracting for the services of at least one teacher  
3 who is licensed and endorsed in early childhood education or in early  
4 childhood special education under chapter 51 of this title who is present at the  
5 private provider’s program site during the hours that are publicly funded; or

6           (ii) for a private provider that is regulated as a family child care home  
7 that is not licensed and endorsed in early childhood education or early  
8 childhood special education, employing or contracting for the services of at  
9 least one teacher who is licensed and endorsed in early childhood education or  
10 in early childhood special education under chapter 51 of this title for regular,  
11 active supervision and training.

12           (2) A ~~licensed public~~ provider shall ~~employ or contract~~ meet minimum  
13 program quality by:

14           (A) employing or contracting for the services of at least one teacher  
15 who is licensed and endorsed in early childhood education or in early  
16 childhood special education under chapter 51 of this title to provide direct  
17 instruction during the hours that are publicly funded; and

18           (B) meeting safety and quality rules adopted by the State Board of  
19 Education.

20           ~~(3) A registered home provider that is not licensed and endorsed in early~~  
21 ~~childhood education or early childhood special education shall receive regular,~~

1 ~~active supervision and training from a teacher who is licensed and endorsed in~~  
2 ~~early childhood education or in early childhood special education under~~  
3 ~~chapter 51 of this title.~~

4 (d) Tuition, ~~budgets~~ payments, and average daily membership.

5 (1) On behalf of a ~~resident~~ prekindergarten child, ~~a district~~ the Secretary  
6 shall pay tuition for prekindergarten education for ten hours per week for  
7 35 weeks annually to a ~~prequalified~~ private provider or to a public school  
8 ~~outside the district that is prequalified pursuant to subsection (c) of this~~  
9 ~~section; provided, however, that the district shall pay tuition for weeks that are~~  
10 ~~within the district's academic year~~ provider. Tuition Notwithstanding  
11 subsection 4025(d) of this title, tuition paid under this section shall be paid  
12 from the Education Fund at a statewide rate, which may be adjusted regionally,  
13 that is established annually through a process ~~jointly~~ developed and  
14 implemented by the ~~Agencies~~ Agency of Education ~~and of Human Services~~. A  
15 ~~district shall pay tuition upon~~ The Secretary shall establish procedures for  
16 payment of tuition to public and private providers that require at a minimum  
17 receiving:

18 (A) ~~receiving~~ annual notice from the child's parent or guardian that  
19 the child ~~is or will be admitted to the~~ chooses to participate in a publicly  
20 funded prekindergarten education program operated by the ~~prequalified~~ public  
21 or private provider ~~or the other district; and~~

1           (B) ~~concurrent enrollment of the prekindergarten child in the district~~  
2 ~~of residence for purposes of budgeting and determining average daily~~  
3 ~~membership notice from the public or private provider that the child is enrolled~~  
4 ~~in its program; and~~

5           (C) a request for reimbursement from the public or private provider  
6 that reports enrollment for the period covered by the request and certifies that  
7 the provider is eligible for public funding under subsection (c) of this section  
8 for the period covered by the request.

9           (2) ~~In addition to any direct costs of operating a prekindergarten~~  
10 ~~education program, a district of residence shall include anticipated tuition~~  
11 ~~payments and any administrative, quality assurance, quality improvement,~~  
12 ~~transition planning, or other prekindergarten-related costs in its annual budget~~  
13 ~~presented to the voters.~~

14           (3) Pursuant to subdivision 4001(1)(C) of this title, ~~the district of~~  
15 ~~residence~~ a district in which the child resides may include within its average  
16 daily membership any prekindergarten child for whom it has provided  
17 prekindergarten education ~~or on whose behalf it has paid tuition pursuant to~~  
18 ~~this section~~ in excess of ten hours per week for 35 weeks annually and the  
19 district shall not charge tuition for these educational services.

20           (4)(3) ~~A prequalified private provider, or a public provider that is not the~~  
21 ~~child's district of residence,~~ may receive additional payment directly from the

1 parent or guardian only for prekindergarten education in excess of the publicly  
2 funded hours paid for ~~by the district~~ pursuant to this ~~section~~ subsection (d) or  
3 for child care services, or both. The provider is not bound by the statewide rate  
4 established in this subsection when determining the rates it will charge the  
5 parent or guardian for these excess hours. A provider shall not impose  
6 additional fees for the publicly funded hours.

7 (e) Rules. The Secretary of Education ~~and the Commissioner for Children~~  
8 ~~and Families shall jointly develop and agree to rules and present them~~ shall  
9 propose rules to the State Board for adoption under 3 V.S.A. chapter 25 as  
10 follows:

11 ~~(1) To permit private providers that are not prequalified pursuant to~~  
12 ~~subsection (c) of this section to create new or continue existing partnerships~~  
13 ~~with school districts through which the school district provides supports that~~  
14 ~~enable the provider to fulfill the requirements of subdivision (c)(2) or (3), and~~  
15 ~~through which the district may or may not make in-kind payments as a~~  
16 ~~component of the statewide tuition established under this section.~~

17 ~~(2) To authorize a district to begin or expand a school-based~~  
18 ~~prekindergarten education program only upon prior approval obtained through~~  
19 ~~a process jointly overseen by the Secretaries of Education and of Human~~  
20 ~~Services, which shall be based upon analysis of the number of prekindergarten~~  
21 ~~children residing in the district and the availability of enrollment opportunities~~



1 ~~with prequalified private providers in the region. Where the data are not clear~~  
2 ~~or there are other complex considerations, the Secretaries may choose to~~  
3 ~~conduct a community needs assessment.~~

4 ~~(3) To require that the school district provides opportunities for effective~~  
5 ~~parental participation in the prekindergarten education program.~~

6 ~~(4) To establish a process by which:~~

7 ~~(A) a parent or guardian notifies the district that the prekindergarten~~  
8 ~~child is or will be admitted to a prekindergarten education program not~~  
9 ~~operated by the district and concurrently enrolls the child in the district~~  
10 ~~pursuant to subdivision (d)(1) of this section;~~

11 ~~(B) a district:~~

12 ~~(i) pays tuition pursuant to a schedule that does not inhibit the~~  
13 ~~ability of a parent or guardian to enroll a prekindergarten child in a~~  
14 ~~prekindergarten education program or the ability of a prequalified private~~  
15 ~~provider to maintain financial stability; and~~

16 ~~(ii) enters into an agreement with any provider to which it will pay~~  
17 ~~tuition regarding quality assurance, transition, and any other matters; and~~

18 ~~(C) a provider that has received tuition payments under this section~~  
19 ~~on behalf of a prekindergarten child notifies a district that the child is no longer~~  
20 ~~enrolled.~~

1           ~~(5) To establish a process to calculate an annual statewide tuition rate~~  
2           ~~that is based upon the actual cost of delivering ten hours per week of~~  
3           ~~prekindergarten education that meets all established quality standards and to~~  
4           ~~allow for regional adjustments to the rate.~~

5           ~~(6) [Repealed.]~~

6           ~~(7) To require a district to include identifiable costs for prekindergarten~~  
7           ~~programs and essential early education services in its annual budgets and~~  
8           ~~reports to the community.~~

9           ~~(8) To require a district to report to the Agency of Education annual~~  
10           ~~expenditures made in support of prekindergarten education, with distinct~~  
11           ~~figures provided for expenditures made from the General Fund, from the~~  
12           ~~Education Fund, and from all other sources, which shall be specified.~~

13           ~~(9) To provide an administrative process for:~~

14           ~~(A) a parent, guardian, or provider to challenge an action of a school~~  
15           ~~district or the State when the complainant believes that the district or State is in~~  
16           ~~violation of State statute or rules regarding prekindergarten education; and~~

17           ~~(B) a school district to challenge an action of a provider or the State~~  
18           ~~when the district believes that the provider or the State is in violation of State~~  
19           ~~statute or rules regarding prekindergarten education.~~

20           ~~(10) To establish a system by which the Agency of Education and~~  
21           ~~Department for Children and Families shall jointly monitor and evaluate~~

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

6 ~~(A) programmatic details, including the number of children served,~~  
7 ~~the number of private and public programs operated, and the public financial~~  
8 ~~investment made to ensure access to quality prekindergarten education;~~

9 ~~(B) the quality of public and private prekindergarten education~~  
10 ~~programs and efforts to ensure continuous quality improvements through~~  
11 ~~mentoring, training, technical assistance, and otherwise; and~~

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

14 ~~(11) To establish a process for documenting the progress of children~~  
15 ~~enrolled in prekindergarten education programs and to require public and~~  
16 ~~private providers to use the process to:~~

17 ~~(A) help individualize instruction and improve program practice; and~~

18 ~~(B) collect and report child progress data to the Secretary of~~  
19 ~~Education on an annual basis.~~

20 (1) To require that the Secretary provide opportunities for effective  
21 parental participation in the prekindergarten education program.

1           (2) To establish a process by which tuition payments are requested and  
2           made that includes the conditions in subdivisions (d)(1)(A)–(C) of this section.

3           (3) To establish a process to calculate an annual statewide tuition rate  
4           that is based upon the actual cost of delivering ten hours per week of  
5           prekindergarten education meeting all established quality standards and to  
6           allow for regional adjustments to the rate.

7           (4) To provide an administrative process for:

8           (A) a parent or guardian to challenge a provider’s action or inaction  
9           with respect to enrollment or billing; and

10           (B) a provider to appeal a decision of the Secretary not to pay a  
11           request for reimbursement.

12           (5) To establish a system by which the Secretary shall evaluate  
13           implementation of publicly funded prekindergarten education programs to  
14           promote optimal results for children that support the relevant population-level  
15           outcomes set forth in 3 V.S.A. § 2311 and collect data that will inform future  
16           decisions. The Secretary shall report annually to the General Assembly in  
17           January on the prior year. At a minimum, the system shall evaluate:

18           (A) programmatic details, including the number of children enrolled,  
19           the number of private and public programs operated, and the public financial  
20           investment made to ensure access to quality prekindergarten education;

1           (B) the quality criteria of public and private kindergarten education  
2 programs, training, and technical assistance; and

3           (C) the results for children, including school readiness, proficiency in  
4 numeracy and literacy, and social and emotional development.

5           (6) To establish a process for documenting the progress of children  
6 enrolled in publicly funded prekindergarten education programs and to require  
7 public and private providers to use the process to:

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

9           (B) collect and report child progress data as required by the Secretary  
10 on an annual basis.

11           (7) To establish safety and quality requirements for public providers.

12           ~~(f) Other provisions of law. Section 836 of this title shall not apply to this~~  
13 ~~section.~~

14           ~~(g) Limitations.~~ Nothing in this section shall be construed to permit or  
15 require payment of public funds to a private provider of prekindergarten  
16 education in violation of Chapter I, Article 3 of the Vermont Constitution or in  
17 violation of the Establishment Clause of the U.S. Constitution.

18           ~~(h) Geographic limitations.~~

19           ~~(1) Notwithstanding the requirement that a district pay tuition to any~~  
20 ~~prequalified public or private provider in the State, a school board may choose~~  
21 ~~to limit the geographic boundaries within which the district shall pay tuition by~~

1 ~~paying tuition solely to those prequalified providers in which parents and~~  
2 ~~guardians choose to enroll resident prekindergarten children that are located~~  
3 ~~within the district's "prekindergarten region" as determined in subdivision (2)~~  
4 ~~of this subsection.~~

5 ~~(2) For purposes of this subsection, upon application from the school~~  
6 ~~board, a district's prekindergarten region shall be determined jointly by the~~  
7 ~~Agencies of Education and of Human Services in consultation with the school~~  
8 ~~board, private providers of prekindergarten education, parents and guardians of~~  
9 ~~prekindergarten children, and other interested parties pursuant to a process~~  
10 ~~adopted by rule under subsection (e) of this section. A prekindergarten region:~~

11 ~~(A) shall not be smaller than the geographic boundaries of the school~~  
12 ~~district;~~

13 ~~(B) shall be based in part upon the estimated number of~~  
14 ~~prekindergarten children residing in the district and in surrounding districts, the~~  
15 ~~availability of prequalified private and public providers of prekindergarten~~  
16 ~~education, commuting patterns, and other region specific criteria; and~~

17 ~~(C) shall be designed to support existing partnerships between the~~  
18 ~~school district and private providers of prekindergarten education.~~

19 ~~(3) If a school board chooses to pay tuition to providers solely within its~~  
20 ~~prekindergarten region, and if a resident prekindergarten child is unable to~~  
21 ~~access publicly funded prekindergarten education within that region, then the~~

1 ~~child's parent or guardian may request and in its discretion the district may pay~~  
2 ~~tuition at the statewide rate for a prekindergarten education program operated~~  
3 ~~by a prequalified provider located outside the prekindergarten region.~~

4 ~~(4) Except for the narrow exception permitting a school board to limit~~  
5 ~~geographic boundaries under subdivision (1) of this subsection, all other~~  
6 ~~provisions of this section and related rules shall continue to apply.~~

7 Sec. 2. 16 V.S.A. § 4001 is amended to read:

8 § 4001. DEFINITIONS

9 As used in this chapter:

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

13 \* \* \*

14 (C) ~~The full-time equivalent enrollment for each prekindergarten~~  
15 ~~child as follows: If a child is enrolled in 10 or more hours of prekindergarten~~  
16 ~~education per week or receives 10 or more hours of essential early education~~  
17 ~~services per week, the child shall be counted as one full-time equivalent pupil.~~  
18 ~~If a child is enrolled in six or more but fewer than 10 hours of prekindergarten~~  
19 ~~education per week or if a child receives fewer than 10 hours of essential early~~  
20 ~~education services per week, the child shall be counted as a percentage of one~~  
21 ~~full-time equivalent pupil, calculated as one multiplied by the number of hours~~

1 ~~per week divided by ten. A child enrolled in prekindergarten education for~~  
2 ~~fewer than six hours per week shall not be included in the district's average~~  
3 ~~daily membership~~ enrolled in excess of ten hours in a public school in the  
4 district in which the child resides prorated to reflect the hours of education  
5 provided by the school up to an additional ten hours. There is no limit on the  
6 total number of children who may be enrolled in prekindergarten education or  
7 who receive essential early education services.

8 \* \* \*

9 Sec. 3. 33 V.S.A. § 3502 is amended to read:

10 § 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC  
11 SCHOOLS; 21ST CENTURY FUND

12 (a) Unless exempted under subsection (b) of this section, a person shall not  
13 operate a child care facility without a license, or operate a family child care  
14 home without registration from the Department.

15 (b) The following persons are exempted from the provisions of subsection

16 (a) of this section:

17 \* \* \*

18 (5) an after-school program that serves students in one or more grades  
19 from kindergarten through secondary school, that receives funding through the  
20 21st Century Community Learning Centers program, and that is overseen by



1 the Agency of Education, unless the after-school program asks to participate in  
2 the child care subsidy program; and

3 (6) a public provider of prekindergarten education, as defined under  
4 16 V.S.A. § 829(a)(4), unless the public provider participates in the child care  
5 subsidy program.

6 \* \* \*

7 Sec. 4. 16 V.S.A. § 11 is amended to read:

8 **§ 11. CLASSIFICATIONS AND DEFINITIONS**

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

10 \* \* \*

11 (31) “Early childhood education,” “early education,” or “prekindergarten  
12 education” means services designed to provide developmentally appropriate  
13 early development and learning experiences based on Vermont’s early learning  
14 standards to a children child who is: are three to four years of age and to five-  
15 year-old children who are not eligible for or enrolled in kindergarten

16 (A) three or four years of age or is five years of age but is not yet  
17 eligible to be enrolled in kindergarten; or

18 (B) if the child is on an individualized education program, five years  
19 of age but is not yet enrolled in kindergarten.

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Sec. 5. EFFECTIVE DATE

3

This act shall take effect on June 1, 2019.