

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; human services; early childhood education;
4 prekindergarten

5 Statement of purpose of bill as introduced: This bill proposes to (i) eliminate
6 joint administration by the Agency of Education and the Agency of Human
7 Services of prekindergarten education programs; (ii) require that school
8 districts that pay tuition for prekindergarten education use uniform forms and
9 processes developed by the Agency of Education; and (iii) simplify and clarify
10 the quality criteria for prekindergarten providers.

11 An act relating to prekindergarten education

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

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

14 § 829. PREKINDERGARTEN EDUCATION

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

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

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

1 (B) five years of age but is not yet enrolled in kindergarten if the
2 child is on an individualized education program or a plan under Section 504 of
3 the Rehabilitation Act of 1973 and the child’s individualized education
4 program team or evaluation and planning team recommends that the child
5 receive prekindergarten education services.

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

9 (3) “~~Prequalified private~~ Private provider” means a private provider of
10 prekindergarten education that ~~is qualified pursuant to~~ meets the program
11 quality requirements under subdivision (c)(1) of this section and is regulated as
12 a center-based child care program or family child care home to provide child
13 care by the Child Development Division of the Department for Children and
14 Families.

15 (4) “Public provider” means a provider of prekindergarten education
16 that is a school district that meets the program quality requirements under
17 subdivision (c)(2) of this section.

18 (b) Access to publicly funded prekindergarten education.

19 (1) ~~No~~ Not fewer than ten hours per week of publicly funded
20 prekindergarten education shall be available for 35 weeks annually to each
21 prekindergarten child whom a parent or guardian wishes to enroll in an

1 available, ~~prequalified~~ prekindergarten education program operated by a public
2 ~~school~~ provider or a private provider.

3 (2) If a parent or guardian chooses to enroll a prekindergarten child in an
4 available, ~~prequalified~~ prekindergarten education program, then, pursuant to
5 the parent or guardian's choice, the school district of residence shall:

6 (A) pay tuition pursuant to subsections (d) and (h) of this section
7 upon the request of the parent or guardian to:

8 (i) a ~~prequalified~~ private provider; or

9 (ii) a public ~~school~~ provider located outside the district that
10 ~~operates a prekindergarten program that has been prequalified pursuant to~~
11 ~~subsection (c) of this section~~ that is not the school district of residence; or

12 (B) enroll the child in the prekindergarten education program that it
13 operates.

14 (3) If requested by the parent or guardian of a prekindergarten child, the
15 school district of residence shall pay tuition to a ~~prequalified~~ prekindergarten
16 education program operated by a private provider or a public ~~school in another~~
17 ~~district~~ provider that is not the school district of residence even if the district of
18 residence operates a prekindergarten education program.

19 (4) ~~If the supply of prequalified private and public providers is~~
20 ~~insufficient to meet the demand for publicly funded prekindergarten education~~
21 ~~in any region of the State, nothing~~ Nothing in this section shall be construed to

1 require the State or a district to begin or expand a prekindergarten education
2 program to satisfy ~~that demand; but rather, in collaboration with the Agencies~~
3 ~~of Education and of Human Services, the local Building Bright Futures~~
4 ~~Council shall meet with school districts and private providers in the region to~~
5 ~~develop a regional plan to expand capacity for prekindergarten education.~~

6 (c) ~~Prequalification. Pursuant to rules jointly developed and overseen by~~
7 ~~the Secretaries of Education and of Human Services and adopted by the State~~
8 ~~Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine~~
9 ~~that a private or public provider of prekindergarten education is qualified for~~
10 ~~purposes of this section and include the provider in a publicly accessible~~
11 ~~database of prequalified providers. At a minimum, the rules shall define the~~
12 ~~process by which a provider applies for and maintains prequalification status,~~
13 ~~shall identify the minimum quality standards for prequalification, and shall~~
14 ~~include the following requirements~~ Provider qualification. In order to be
15 eligible for tuition payments:

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

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

1 ~~(B)~~ at least four stars in the Department for Children and Families’
2 STARS system ~~with a plan to get to at least two points in each of the five~~
3 ~~arenas; or and~~

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

9 (B) employing or contracting for the services of at least one teacher
10 who is licensed and endorsed in early childhood education or in early
11 childhood special education under chapter 51 of this title to provide direct
12 instruction or regular, active supervision and training of the private provider’s
13 staff:

14 (i) for a private provider that is regulated as a center-based child
15 care program, during the hours in which prekindergarten education is paid for
16 with publicly funded tuition; or

17 (ii) for a private provider that is regulated as a family child care
18 home, for at least three hours per week in which prekindergarten education is
19 paid for with publicly funded tuition.

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

1 (A) employing or contracting for the services of at least one teacher
2 who is licensed and endorsed in early childhood education or in early
3 childhood special education under chapter 51 of this title to provide direct
4 instruction during the hours of operation of the program; and

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

7 ~~(3) A registered home provider that is not licensed and endorsed in early~~
8 ~~childhood education or early childhood special education shall receive regular,~~
9 ~~active supervision and training from a teacher who is licensed and endorsed in~~
10 ~~early childhood education or in early childhood special education under~~
11 ~~chapter 51 of this title.~~

12 (d) Tuition, budgets, and average daily membership.

13 (1) On behalf of a resident prekindergarten child, a district shall pay
14 tuition for prekindergarten education for ten hours per week for 35 weeks
15 annually to a ~~prequalified~~ private provider or to a public school outside the
16 district that is ~~prequalified pursuant to subsection (c) of this section~~ provider
17 that is not the child's district of residence; ~~provided, however, that the district~~
18 ~~shall pay tuition for weeks that are within the district's academic year.~~ Tuition
19 paid under this section shall be at a statewide rate, which may be adjusted
20 regionally, that is established annually through a process ~~jointly~~ developed and

1 implemented by the ~~Agencies~~ Agency of Education and of Human Services. A
2 district shall pay tuition upon:

3 (A) receiving notice from the child’s parent or guardian that the child
4 is or will be admitted to the prekindergarten education program operated by the
5 ~~prequalified~~ private provider or the other district; and

6 (B) concurrent enrollment of the prekindergarten child in the district
7 of residence for purposes of budgeting and determining average daily
8 membership.

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 may include within its average daily membership any
16 prekindergarten child for whom it has provided prekindergarten education or
17 on whose behalf it has paid tuition pursuant to this section.

18 (4) A ~~prequalified~~ private provider, or a public provider that is not the
19 child’s district of residence, may receive additional payment directly from the
20 parent or guardian only for prekindergarten education in excess of the publicly
21 funded hours paid for by the district pursuant to this ~~section~~ subsection or for

1 child care services, or both. The provider is not bound by the statewide rate
2 established in this subsection when determining the rates it will charge the
3 parent or guardian for these excess hours. A private or public provider shall
4 not impose additional fees for the hours that are publicly funded under this
5 section.

6 (5) A district that pays tuition for prekindergarten education under this
7 section shall use uniform forms and processes developed by the Agency of
8 Education for:

9 (A) contracting with the private or public provider;

10 (B) invoicing, payment schedules, and payment of tuition for the
11 hours that are publicly funded under this section;

12 (C) enrolling students in the prekindergarten program; and

13 (D) tracking attendance of enrolled students.

14 (6) The board of a supervisory union that includes one or more member
15 districts that offer prekindergarten education shall adopt a prekindergarten
16 monitoring program that complies with State Board rules.

17 (e) Rules.

18 (1) The Secretary of Education and the Commissioner for Children and
19 Families shall jointly develop and agree to rules and present them shall
20 propose rules to the State Board for adoption under 3 V.S.A. chapter 25 as
21 follows:

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

7 ~~(2) To authorize a district to begin or expand a school-based~~
8 ~~prekindergarten education program only upon prior approval obtained through~~
9 ~~a process jointly overseen by the Secretaries of Education and of Human~~
10 ~~Services, which shall be based upon analysis of the number of prekindergarten~~
11 ~~children residing in the district and the availability of enrollment opportunities~~
12 ~~with prequalified private providers in the region. Where the data are not clear~~
13 ~~or there are other complex considerations, the Secretaries may choose to~~
14 ~~conduct a community needs assessment.~~

15 ~~(3)(A)~~ To require that the school district public provider provides
16 opportunities for effective parental participation in ~~the~~ its prekindergarten
17 education program.

18 ~~(4)(B)~~ To establish a process by which:

19 ~~(A)(i)~~ a parent or guardian notifies the district of residence that the
20 prekindergarten child is or will be admitted to a prekindergarten education

1 program not operated by the district of residence and concurrently enrolls the
2 child in the district of residence pursuant to subdivision (d)(1) of this section;

3 ~~(B)~~(ii) a district of residence:

4 ~~(i)~~(I) pays tuition pursuant to a schedule that does not inhibit the
5 ability of a parent or guardian to enroll a prekindergarten child in a
6 prekindergarten education program or the ability of a ~~prequalified~~ private
7 provider to maintain financial stability; and

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

10 ~~(C)~~(iii) a public provider that has received tuition payments under
11 this section on behalf of a prekindergarten child notifies a district that the child
12 is no longer enrolled.

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

17 ~~(6)~~ ~~[Repealed.]~~

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

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

5 ~~(9)~~(F) To provide an administrative process for:

6 ~~(A)~~(i) a parent, guardian, or public provider to challenge an action of
7 a school district or the State when the complainant believes that the district or
8 State is in violation of State statute or rules regarding prekindergarten
9 education; and

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

13 ~~(10)~~(G) To establish a system by which the ~~Agency of Education and~~
14 ~~Department for Children and Families~~ Secretary shall jointly monitor and
15 evaluate implementation of publicly funded prekindergarten education
16 programs offered by public providers to promote optimal results for children
17 that support the relevant population-level outcomes set forth in 3 V.S.A.
18 § 2311 and to collect data that will inform future decisions. Pursuant to
19 subdivision (d)(6) of this section, the required monitoring system shall include
20 a requirement that a prekindergarten monitoring policy be implemented by the
21 board of those supervisory unions that have one or more member districts that

1 offer prekindergarten education. The ~~Agency and Department~~ Secretary shall
2 be required to report the results of its monitoring and evaluation annually to the
3 General Assembly in January for the prior school year. At a minimum, the
4 system shall monitor and evaluate:

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

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

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

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

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

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

1 (I) To establish safety and quality requirements for public providers.

2 (2) The Commissioner for Children and Families shall adopt rules under
3 3 V.S.A. chapter 25 as follows:

4 (A) To permit providers that are not qualified as private providers
5 under subdivision (c)(1)(B) of this section to create new or continue existing
6 partnerships with school districts through which the school district provides
7 supports that enable the provider to fulfill the requirements of that subdivision,
8 and through which the district may or may not make in-kind payments as a
9 component of the statewide tuition established under this section.

10 (B) To require that the private provider provides opportunities for
11 effective parental participation in its prekindergarten education program.

12 (C) To establish a process by which a private provider that has
13 received tuition payments under this section on behalf of a prekindergarten
14 child notifies a district that the child is no longer enrolled.

15 (D) To provide an administrative process for a parent, guardian, or
16 private provider to challenge an action of a school district or the State when the
17 complainant believes that the district or State is in violation of State statute or
18 rules regarding prekindergarten education.

19 (E) To establish a system by which the Department for Children and
20 Families shall monitor and evaluate the implementation of publicly funded
21 prekindergarten education programs offered by private providers to promote

1 optimal results for children that support the relevant population-level outcomes
2 set forth in 3 V.S.A. § 2311 and to collect data that will inform future
3 decisions. The Department shall be required to report the results of its
4 monitoring and evaluation annually to the General Assembly in January for the
5 prior school year. At a minimum, the system shall monitor and evaluate:

6 (i) programmatic details, including the number of children
7 enrolled with private providers, the number of private providers operated, and
8 the public financial investment made in private providers to ensure access to
9 quality prekindergarten education;

10 (ii) the quality of private providers and efforts to ensure
11 continuous quality improvements through mentoring, training, and technical
12 assistance; and

13 (iii) the results for children, including school readiness,
14 proficiency in numeracy and literacy, and social and emotional development.

15 (F) To establish a process for documenting the progress of children
16 enrolled in publicly funded prekindergarten education programs offered by
17 private providers and to require private providers to use the process to:

18 (i) help individualize instruction and improve program practice;
19 and

20 (ii) collect and report child progress data to the Department for
21 Children and Families on an annual basis.

1 (3)(A) In proposing and adopting rules under this subsection (e), the
2 Agency or Education, the State Board of Education, and the Department for
3 Children and Families shall coordinate to ensure alignment of their rules,
4 except to the extent that there are compelling reasons that are unique to the
5 public or private provider environment that justify applying different
6 requirements. In adopting safety and quality requirements for public providers
7 under subdivision (1)(I) of this subsection, the Secretary and State Board shall
8 adopt the same rules that the Department applies to private providers, unless
9 there are compelling reasons that are unique to the public environment that
10 justify applying different requirements.

11 (B) The Secretary of Education and the Department of Children and
12 Families shall draft and deliver the reports required under subdivisions (1)(G)
13 and (2)(E) of this subsection (e) on a joint basis in a single combined report.

14 (f) Other provisions of law. Section 836 of this title shall not apply to this
15 section.

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

20 (h) Geographic limitations.

1 (1) Notwithstanding the requirement that a district pay tuition to any
2 ~~prequalified~~ public or private provider in the State, a school board may choose
3 to limit the geographic boundaries within which the district shall pay tuition by
4 paying tuition solely to those ~~prequalified~~ providers in which parents and
5 guardians choose to enroll resident prekindergarten children that are located
6 within the district’s “prekindergarten region” as determined in subdivision (2)
7 of this subsection.

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

14 (A) shall not be smaller than the geographic boundaries of the school
15 district;

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

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

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 Financial Assistance Program pursuant to section 3512 of this title.

6 * * *

7 Sec. 3. 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
12 “prekindergarten education” means services designed to provide
13 developmentally appropriate early development and learning experiences
14 based on Vermont’s early learning standards to ~~children~~ a child who ~~are three~~
15 ~~to four years of age and to five-year-old children who are not eligible for or~~
16 ~~enrolled in kindergarten~~ is:

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

19 (B) five years of age but is not yet enrolled in kindergarten if the
20 child is on an individualized education program or a plan under Section 504 of
21 the Rehabilitation Act of 1973, and the child’s individualized education

1 program team or evaluation and planning team recommends that the child
2 receive prekindergarten education services.

3 * * *

4 Sec. 4. DEVELOPMENT OF UNIFORM FORMS AND PROCESSES

5 On or before October 31, 2020, the Secretary of Education shall develop
6 and post on its website uniform forms and processes under 16 V.S.A. § 829 as
7 amended by this act for:

8 (1) a school district to contract with a private or public prekindergarten
9 education provider;

10 (2) invoicing, payment schedules, and payment of tuition for the hours
11 that are publicly funded under that section;

12 (3) enrolling students in a prekindergarten education program; and

13 (4) tracking attendance of students enrolled in a prekindergarten
14 education program.

15 Sec. 5. PREKINDERGARTEN MONITORING POLICY

16 On or before June 30, 2021, the Secretary of Education shall develop and
17 post on its website a model prekindergarten monitoring policy for supervisory
18 unions.

19 Sec. 6. EFFECTIVE DATES

20 Secs. 1–3 of this act shall take effect on July 1, 2021, and Secs. 4 and 5 and
21 this section of this act shall take effect on passage.