

1 S.10

2 Introduced by Senator Baruth

3 Referred to Committee on

4 Date:

5 Subject: Education; prekindergarten

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

12 An act relating to prekindergarten education

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

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

15 § 829. PREKINDERGARTEN EDUCATION

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

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

19 (A) three or four years of age or is five years of age but is not yet
20 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 subsection (c) of this~~
11 ~~section~~ regulated as a center-based child care program or family child care
12 home to provide child care by the Child Development Division of the
13 Department for Children and Families.

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

16 (b) Access to publicly funded prekindergarten education.

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

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

4 (A) the child shall be enrolled in a prekindergarten education
5 program operated by a private provider located in Vermont or a Vermont
6 public school located outside the district in which the child resides, and the
7 Secretary shall pay tuition pursuant to subsections (d) and (h) subsection (d) of
8 this section upon the request of the parent or guardian to:

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

10 (ii) ~~a public school located outside the district that operates a~~
11 ~~prekindergarten program that has been prequalified pursuant to subsection (c)~~
12 ~~of this section~~ the provider; or

13 (B) ~~enroll~~ the child shall be enrolled in the prekindergarten education
14 ~~program that it operates~~ operated by the public school district of residence, if
15 such a program is offered, and the school district shall be eligible to count that
16 child in its average daily membership pursuant to subsection (d) of this section.

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

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

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

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

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

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

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

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

16 (ii) for a private provider that is regulated as a family child care
17 home that is not licensed and endorsed in early childhood education or early
18 childhood special education, employing or contracting for the services of at
19 least one teacher who is licensed and endorsed in early childhood education or
20 in early childhood special education under chapter 51 of this title for at least
21 three hours per week during each of the 35 weeks per year in which

1 prekindergarten education is paid for with publicly funded tuition to provide
2 regular, active supervision and training of the private provider's staff.

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

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

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

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

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

17 (1) On behalf of a ~~resident~~ prekindergarten child, ~~a district~~ the Secretary
18 shall pay tuition for prekindergarten education for ten hours per week for
19 35 weeks annually to a ~~prequalified~~ private provider or to a public ~~school~~
20 ~~outside the district that is prequalified pursuant to subsection (c) of this~~
21 ~~section; provided, however, that the district shall pay tuition for weeks that are~~

1 ~~within the district's academic year~~ provider that is not the child's district of
2 residence. ~~Tuition~~ Notwithstanding subsection 4025(d) of this title, tuition
3 paid under this section shall be paid from the Education Fund at a statewide
4 rate, which may be adjusted regionally, that is established annually through a
5 process ~~jointly~~ developed and implemented by the ~~Agencies~~ Agency of
6 Education ~~and of Human Services.~~ ~~A district shall pay tuition upon~~ The
7 Secretary shall establish procedures for payment of tuition to a public provider
8 that is not the child's district of residence and a private provider that require, at
9 a minimum, receiving:

10 (A) ~~receiving~~ annual notice from the child's parent or guardian that
11 the child ~~is or will be admitted to the~~ chooses to participate in a publicly
12 funded prekindergarten education program operated by the ~~prequalified~~ public
13 provider that is not the child's district of residence or private provider or the
14 ~~other district; and~~

15 (B) ~~concurrent enrollment of the prekindergarten child in the district~~
16 ~~of residence for purposes of budgeting and determining average daily~~
17 ~~membership~~ notice from the public provider that is not the child's district of
18 residence or private provider that the child is enrolled in its program; and

19 (C) a request for reimbursement from the public provider that is not
20 the child's district of residence or the private provider that reports enrollment
21 for the period covered by the request and certifies that the provider is eligible

1 for public funding under subsection (c) of this section for the period covered
2 by the request.

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

8 (3) Pursuant to subdivision 4001(1)(C) of this title, the district of
9 residence may include within its average daily membership any
10 prekindergarten child for whom it has provided prekindergarten education ~~or~~
11 ~~on whose behalf it has paid tuition pursuant to this section.~~

12 (4) A ~~prequalified~~ private provider, or a public provider that is not the
13 child's district of residence, may receive additional payment directly from the
14 parent or guardian only for prekindergarten education in excess of the publicly
15 funded hours paid for ~~by the district pursuant to this section~~ subsection or for
16 child care services, or both. The provider is not bound by the statewide rate
17 established in this subsection when determining the rates it will charge the
18 parent or guardian for these excess hours. A provider shall not impose
19 additional fees for the publicly funded hours.

20 (e) Rules. The Secretary of Education ~~and the Commissioner for Children~~
21 ~~and Families shall jointly develop and agree to rules and present them~~ shall

1 propose rules to the State Board for adoption under 3 V.S.A. chapter 25 as
2 follows:

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

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

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

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

20 ~~(A) a parent or guardian notifies the district that the prekindergarten~~
21 ~~child is or will be admitted to a prekindergarten education program not~~

1 ~~operated by the district and concurrently enrolls the child in the district~~
2 ~~pursuant to subdivision (d)(1) of this section;~~

3 ~~(B) a district:~~

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

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

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

1 ~~(8) 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) To provide an administrative process for:~~

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

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

12 ~~(10) To establish a system by which the Agency of Education and~~
13 ~~Department for Children and Families shall jointly monitor and evaluate~~
14 ~~prekindergarten education programs to promote optimal results for children~~
15 ~~that support the relevant population level outcomes set forth in 3 V.S.A.~~
16 ~~§ 2311 and to collect data that will inform future decisions. The Agency and~~
17 ~~Department shall be required to report annually to the General Assembly in~~
18 ~~January. At a minimum, the system shall monitor and evaluate:~~

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

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

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

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

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

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

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

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

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

20 (4) To provide an administrative process for:

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

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

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

11 (A) programmatic details, including the total number of children
12 enrolled and the number of children enrolled in private programs and in public
13 programs, the number of private and public programs operated, and the public
14 financial investment made to ensure access to quality prekindergarten
15 education;

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

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

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

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

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

7 (7) To establish safety and quality requirements for public providers. In
8 establishing these safety and quality requirements, the Secretary shall consult
9 with the Agency of Human Services and recommend to the State Board safety
10 and quality requirements that align with the requirements for private providers,
11 except to the extent that the Secretary determines that there are compelling
12 reasons that are unique to the public school environment that justify applying
13 different requirements.

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

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

19 ~~(g) Limitations. Nothing in this section shall be construed to permit or~~
20 ~~require payment of public funds to a private provider of prekindergarten~~

1 education in violation of Chapter I, Article 3 of the Vermont Constitution or in
2 violation of the Establishment Clause of the U.S. Constitution.

3 ~~(h) Geographic limitations.~~

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

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

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

19 ~~(B) shall be based in part upon the estimated number of~~
20 ~~prekindergarten children residing in the district and in surrounding districts, the~~

1 ~~availability of prequalified private and public providers of prekindergarten~~
2 ~~education, commuting patterns, and other region-specific criteria; and~~

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

5 ~~(3) If a school board chooses to pay tuition to providers solely within its~~
6 ~~prekindergarten region, and if a resident prekindergarten child is unable to~~
7 ~~access publicly funded prekindergarten education within that region, then the~~
8 ~~child's parent or guardian may request and in its discretion the district may pay~~
9 ~~tuition at the statewide rate for a prekindergarten education program operated~~
10 ~~by a prequalified provider located outside the prekindergarten region.~~

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

14 Sec. 2. 33 V.S.A. § 3502 is amended to read:

15 § 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC

16 SCHOOLS; 21ST CENTURY FUND

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

20 (b) The following persons are exempted from the provisions of
21 subsection (a) of this section:

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(5) an after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the child care subsidy program; and

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

* * *

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

§ 11. CLASSIFICATIONS AND DEFINITIONS

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

* * *

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

