VERMONT

Department for Children and Families
Commissioner's Office
280 State Drive – HC 1 North
Waterbury, VT 05671-1080
www.dcf.vt.gov

[phone] 802-241-0929
[fax] 802-241-0950

Agency of Human Services

Memorandum

To: House Human Services Committee
From: Sean Brown, DCF Commissioner
Re: H.171 Testimony Summary
Date: February 23, 2021

I am writing to provide a summary of my February 10th testimony on H.171 Governance and financing Vermont's child care system. This includes overview comments, section-by-section analysis and recommendations, and final thoughts. Please contact Geoffrey Pippenger, Senior Advisor to the Commissioner, with any further questions or requests.

Overall Comments

- The Administration praises the concept of achieving access to affordable, quality child care for all Vermont families who need it.
- Prior to enacting much of this bill, including intent, the administration agrees with studying the concept and approach.
  - More information is needed to evaluate if this policy direction is the most effective and efficient way to accomplish universal child care, if this is the committee's intent. One question that would need to be explored is if the 10% threshold negatively impacts some families.
- This bill does not address the need for additional administrative capacity.
  - The Child Care Financial Assistance Program (CCFAP) program will require increased staff capacity to administer both the eligibility and payment aspects of the program. This bill effectively implements universal child care and ties the caseload to birth rate. Given CCFAP is currently 20% of our regulated system, this would be a substantial increase in caseload.
  - If DCF administers the loan forgiveness program as described in this bill and does not contract it out, additional staffing will be needed to administer this program.
- The impact of the total proposal is vast, and we would expect a cost of hundreds of millions of additional dollars annually.
  - An exact estimate on this policy proposal is unable to be determined until it is analyzed, and the final policy direction is determined.
  - Each individual part of this proposal has its own fiscal implications.
  - Our current CCFAP budget is $57 million which represents 20% of the current children in the system at the current rates and scale.
- This bill does not address potential child care capacity needs. The field would need to be able to accommodate all Vermont's children in child care settings should families choose to send their children to care. Pre-COVID, we know the supply of child care slots was a significant concern. Capacity limitations could be problematic when all families become eligible for subsidized care.

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SECTION BY SECTION:

Sec 1: FINDINGS AND LEGISLATIVE INTENT

- The Administration supports this section at a high level. The issues lie in how to achieve it, what it costs, and where the funds will come from.

Sec 2: AMENDMENTS TO 33 V.S.A. § 3512: CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY TO TAKE EFFECT JULY 1, 2021.

- This creates a framework for universal childcare by removing the requirement that families are searching for employment to be eligible for CCFAP, and that a qualification for CCFAP can be to "support healthy development of their children." It should be noted that this will effectively make every Vermont child eligible for CCFAP if their families meet the current income requirements.
- **Recommendation:** Setting the lower limit of the eligibility scale at 150% of the federal poverty level (FPL) is already in the Governor's FY22 budget proposal. If the legislature approves the proposal, we recommend implementation be set for 10/1/2021 to align with the IT system upgrade roll-out.

Sec 3: AMENDMENTS TO 33 V.S.A. § 3512: CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY (THAT SAME SECTION, BUT EFFECTIVE JULY 1, 2022 AND ONLY EFFECTIVE FOR THAT SINGLE FISCAL YEAR)

- **Recommendation:** Setting the upper limit of the eligibility scale at 350% of the FPL is already in the Governor's FY22 budget proposal. If the legislature approves the proposal, we recommend implementation be set for 10/1/2021 to align with the IT system upgrade roll-out.

Sec 4: AMENDMENTS TO 33 V.S.A. § 3512: CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY (THAT SAME SECTION) TAKES EFFECT JULY 1, 2022.

- **Administration is not in favor of the additional language** placing five categories of eligibility into law. This restricts the current program flexibility which uses administrative rule making.
    - This limits our ability to change/modify/add service needs in a responsive and timely manner (as what occurred with COVID).
    - The current list of service needs includes all in the bill's list except an applicant pursuing additional educational degrees beyond their bachelor's degree. Following the current rule-making process, this could easily be added.

Sec 5: AMENDMENTS TO 33 V.S.A. § 3514: PAYMENT TO PROVIDERS TAKES EFFECT JULY 1, 2021

- **Administration is not in favor of:**
    - Eliminating the ability to pay different rates to different types of programs;
        - Paying different rates based on program type (licensed or registered) is reflective of the differences in costs for providing care and what is charged for care by these different program types.
        - One rate for all provider types will significantly impact the budget of CCFAP, and the cost for parents who are not eligible for child care assistance.
    - Eliminating the ability to select the payment method and replacing it with cost of care;
        - Replacing the current rate structure benchmark with a cost of care benchmark <u>may not align with the federal rule</u> requiring that CCFAP payments are not greater than the program charges private paying families.

        - To pay true cost of care through the CCFAP program, providers would need to charge the true cost of care to all families. If the true cost of care is a substantial increase, private pay families could face a significant increase in their child care costs.
        - The 2019 Market Rate Survey report includes a new section analyzing the true cost of care for Vermont programs. This provides a reference as rates are set.
        - There are not enough details to implement cost of care, including early childhood educator compensation that is commensurate with peers in other fields.
    - Requiring payment be based on enrollment instead of attendance;
        - Language in the current law allows program administrators to determine the method of payment including the hybrid approach currently used.
        - Our policies enable accountability, reduce improper payments, and flexibility and control being placed in the hands of families. We can ensure the limited resources we have for this program are spent on behalf of families who are utilizing the system.
        - When attendance records show a family's utilization does not align with their authorized hours, our subsidy specialists work with families to provide supports and assure their child care needs are met while maximizing the use of limited program funds.
        - The rule-making process was used to establish this payment approach. This flexibility allowed us to respond to the COVID-19 closure of the child care system swiftly. The proposed language prevents those changes without a change in the law.
        - Paying based on enrollment is a significant policy shift that made sense when the child care system was closed for the pandemic and no one was attending child care.
        - An enrollment-based system has fiscal implications and adds costs to the program. When we shifted from an enrollment-based system during the governors pandemic closure period back to the attendance-based system, we saw a decrease associated with CCFAP cost. A fiscal impact of the shift to only enrollment-based pay is needed.

Recommendation: These ideas should be included in a policy study to learn their overall impact.

Section 6: CHILD CARE AND DEVELOPMENT FUND STATE PLAN; AMENDMENT

The administration is not in favor of this section and recommends:

1. **Eliminating the language regarding the State Plan amendment:**

- The language requiring a state plan amendment is not needed because it <u>is required by the CCDF law</u>. Issuing a state law may become a conflict if federal requirements change. It also restricts flexibility to modify the plan to reflect needed changes as for the pandemic. This could have significantly slowed our ability to stabilize the field during crisis.

2. **Add the proposed policy changes to the advisory committee to evaluate.**

- The policy proposed in this section is substantially different from the Governor's 5-year plan for CCFAP.
    - The Governor's plan is that a set co-payment amount is assigned to a family based on the FPL, not a percentage of their income.
        - In the Governor's plan, there is no sliding scale, there is a set co-payment; providers will be paid what they charge all families up to a capped rate.

        - The amount of the co-payment is set using the Federal Poverty Level, with considerations to the livable wage and the amount of funds a family has available to pay for child care. This approach complies with federal requirements.
        - Many options were considered in developing the Governor's plan and it was found that the set co-payment provided a more understandable system for families and child care providers. It is also more flexible in how it can be expanded as the state budget allows for increased eligibility.
- Part three of this section shifts the benchmark for setting rates from the Market Rate Survey to the cost of care and eliminates the flexibility to set rates based on either method.
    - The Governor's proposal uses the Market Rate Survey to set caps. This was determined after consideration of providers' current rates, what is appropriate for families that receive CCFAP, and the amount of funds a family has available to pay for child care.
    - The flexibility to set rates based on either method to ensure equality for all families is critical.

Sec. 7: APPROPRIATION AND LEGISLATIVE INTENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

- We believe the $4.75M appropriation referenced in this section is related to the cost estimate conducted by DCF on an earlier version of this bill. This cost was limited to expansion of the income limits as follows:
    - The lower limit of the fee scale includes families whose gross income is up to and including 150 % of the current FPL guidelines. The upper income limit of the fee scale shall not be less than 350 % of the FPL guidelines, adjusted for family size.
    - Utilizes current CCFAP rates and program rules. It does not calculate moving to the cost of care.
    - It is estimated that 200 more children would come into the program whose families are between 300% and 350% FPL during SFY22, and that the average rate paid for those children would be $78 per week. The number of families associated with this income bracket was based on existing CCFAP data.
    - It was assumed that family demographics remain similar to past years of the program.
    - It provides a point-in-time estimate using a specific month caseload and does not account for seasonal changes, birthrate, or other factors that may impact future caseload.
- The Governor's proposal shifts the income scale and moves to the 50^{th} percentile for 2019 rates.
    - The 5-year plan starts at the livable wage for family size, then anything the family earns over that would be considered available for child care.
    - The 10% approach could be unfairly weighted for people at far ends of the income scale.
- **Administration is not in favor of this and recommends learning the results from the study committees prior to legislating.**

Sec. 8: BRIGHT FUTURES INFORMATION SYSTEM; MODERNIZATION PLAN

The Governor's budget already includes funding in the one-time IT Fund for these phases.

Sec 9-11: EARLY CHILDHOOD WORKFORCE PROGRAMS AND FUNDING/TIMELINES

The Administration is generally supportive of these sections, with funding allocated.

- $150,000 is in the Governor's FY21 budget annual base for current workforce scholarships.
- Scholarships for prospective workforce – no additional funding is allocated in Governor's FY22 budget, $150,000 remains in base budget for FY22.
- Loan Forgiveness – no funding is currently allocated in Governor's FY22 budget.
    - This will require staff capacity to implement:
        - Position(s) and funding if within CDD; or
        - Funding if contracted.

Sec. 12: EARLY CARE AND EDUCATION GOVERNANCE STUDY

- Reports on both studies are due Jan 15, 2022.
    - This means a maximum time to accomplish the work for the reports is a 6-month period. This would limit the ability of those committees to cover the breadth and scope of the responsibilities assigned to them.

Recommendation: Make reports on both studies due Jan 15, 2023.

Sec. 13: EARLY CHILDHOOD FINANCING STUDY

The Administration is not in favor of a financing study.

Recommendation: Make this a policy study to explore the impacts the bill's proposed policy shifts would have on families and providers. This is important to understand prior to analyzing fiscal impacts.

Sec. 14. EARLY CARE AND EDUCATION GOVERNANCE AND ADMINISTRATION ADVISORY COMMITTEE

- ACT 104 legislates Building Bright Futures (BBF) as the designated advisory body to the administration and BBF has already established committees supporting this work. <u>Directing BBF to establish a different advisory committee would be duplicative.</u>
- When the Governor's child care advisory board was eliminated, CDD began using existing committees at Building Bright Futures (Professional Preparation and Development Committee, the Early Learning and Development Committee), to inform the work of the Division and what is outlined in this bill.
- CDD has a robust stakeholder engagement process that has been praised by ICAR and LCAR.
- During our COVID-19 response, CDD created regular opportunities for engagement with organizational stakeholders and established an advisory group of child care providers to inform our work.

Recommendation: Direct BBF to utilize their existing committee structure and ensure diverse stakeholder representation (as described in the section) in those committees.

FINAL THOUGHTS

- This proposal is highly complex, and we do not know what the fiscal impact would be due to a large amount of policy needing to be fleshed out. Specifically, with families paying no more than 10% of their gross income on child care.

- DCF recommends a study committee be established prior to much of this legislation passing to fully analyze the policy and programmatic impacts of the bill. As indicated during testimony, a high-level analysis of this bill indicates its cost could be between $300M to $500M a year due to the following:

    1. Currently CCFAP is 20% of the system at a cost of $57M. Publicly funding the remaining 80% of the market will cost approximately $228M.
    2. Moving from the current market-based rate structure to a “cost of care” structure will lead to substantially increased costs.
    3. Moving from an attendance-based to an enrollment-based reimbursement model will likely lead to an increase in the size and number of childcare providers, increasing the overall cost of the system.
    4. Substantially increasing staff wages will increase cost to the system.
    5. There will be increased costs to administer such a large expansion of the CCFAP program.
    6. Paying family-based providers the same rates as center-based providers will increase costs.
    7. Expanding the CCFAP eligibility criteria to serve all Vermont children will increase costs.
    8. Paying a premium rate for care provided outside of normal business hours will increase costs.

- We are in year three of the Governor’s five-year plan for child care. The upcoming year has significant changes to assistance and modernization that are duplicative of some of this bill. It will be important to see the impacts the Governor’s changes have prior to making more significant policy shifts and changes. Years four and five of the Governor’s plan include adjustments for caseload as well.