

1 H.248

2 Representative Holcombe of Norwich moves that the bill be amended by
3 striking out all after the enacting clause and inserting in lieu thereof the
4 following:

5 * * * Publicly Funded Prekindergarten Education Generally * * *

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

7 § 829. PREKINDERGARTEN EDUCATION

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

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

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

15 (3) “Prequalified private provider” means a private provider of
16 prekindergarten education that is qualified pursuant to subsection (c) of this
17 section.

18 (4) “Prequalified public provider” means a school district that provides
19 prekindergarten education and is qualified pursuant to subsection (c) of this
20 section.

21 (b) Access to publicly funded prekindergarten education.

1 (1) ~~No fewer~~ Not less than ten 10 hours per week of publicly funded
2 prekindergarten education shall be available for 35 weeks annually to each
3 prekindergarten child whom a parent or guardian wishes to enroll in an
4 available, prequalified program operated by a public school or a private
5 provider.

6 (2)(A) If a parent or guardian chooses to enroll a prekindergarten child
7 in an available, prequalified public program, then, pursuant to the parent or
8 guardian's choice, the school district of residence shall:

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

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

15 ~~(B)(ii)~~ enroll the child in the prekindergarten education program that
16 it operates.

17 (B) If a parent or guardian chooses to enroll a prekindergarten child
18 in an available, prequalified private program, then, pursuant to the parent or
19 guardian's choice, the Department for Children and Families shall pay tuition
20 to the prequalified private provider pursuant to 33 V.S.A. § 3551.

1 (3) ~~If requested by the parent or guardian of a prekindergarten child, the~~
2 ~~school district of residence shall pay tuition to a prequalified program operated~~
3 ~~by a private provider or a public school in another district even if the district of~~
4 ~~residence operates a prekindergarten education program. [Repealed.]~~

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

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

1 (1) A program of prekindergarten education, whether provided by a
2 school district or a private provider, shall have received:

3 (A) National Association for the Education of Young Children
4 (NAEYC) accreditation;

5 (B) at least four stars in the Department for Children and Families'
6 STARS system; or

7 (C) three stars in the STARS system if the provider has developed a
8 plan, approved by the Commissioner for Children and Families and the
9 Secretary of Education, to achieve four or more stars.

10 (2) A licensed provider shall employ or contract for the services of at
11 least one teacher who is licensed and endorsed in early childhood education or
12 in early childhood special education under chapter 51 of this title.

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

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

19 (1) On behalf of a resident prekindergarten child, a district shall pay
20 tuition for prekindergarten education for ten hours per week for 35 weeks
21 annually to a prequalified private provider or to a public school outside the

1 district that is prequalified pursuant to subsection (c) of this section; provided,
2 however, that the district shall pay tuition for weeks that are within the
3 district's academic year. Tuition paid under this section shall be 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 of Education and
6 of Human Services. A district shall pay tuition to a prequalified public
7 prekindergarten provider located outside the district upon:

8 (A) receiving notice from the child's parent or guardian that the child
9 is or will be admitted to the prekindergarten education program operated by the
10 prequalified private provider or the other district; and

11 (B) concurrent enrollment of the prekindergarten child in the district
12 of residence for purposes of budgeting and determining average daily
13 membership.

14 (2) In addition to any direct costs of operating a prekindergarten
15 education program, a district of residence shall include anticipated tuition
16 payments and any administrative, quality assurance, quality improvement,
17 transition planning, or other prekindergarten-related costs in its annual budget
18 presented to the voters.

19 (3) Pursuant to subdivision 4001(1)(C) of this title, the district of
20 residence may include within its average daily membership any
21 prekindergarten child for whom it has provided prekindergarten education or

1 on whose behalf it has paid tuition to a prequalified public provider located
2 outside the district, pursuant to this section.

3 (4) A prequalified private provider may receive additional payment
4 directly from the parent or guardian only for prekindergarten education in
5 excess of the hours paid for by the district pursuant to this section or for child
6 care services, or both. The provider is not bound by the statewide rate
7 established in this subsection when determining the rates it will charge the
8 parent or guardian. [Repealed.]

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

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

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

1 children residing in the district and the availability of enrollment opportunities
2 with prequalified private providers in the region. Where the data are not clear
3 or there are other complex considerations, the Secretaries may choose to
4 conduct a community needs assessment.

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

7 (4) To establish a process by which:

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

12 (B) ~~a district:~~

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

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

19 ~~(C) a provider that has received tuition payments under this section~~
20 ~~on behalf of a prekindergarten child notifies a district that the child is no longer~~
21 ~~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~~ 10 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; ~~or guardian; or provider~~ to challenge an action of a
15 school district or the State when the complainant believes that the district or
16 State is in violation of State statute or rules regarding prekindergarten
17 education; ~~and~~

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

1 (C) a parent or guardian to challenge the action of a prequalified
2 private provider or prequalified private provider, respectively, when the
3 complainant believes that the provider is in violation of State statute or rules
4 regarding prekindergarten education; and

5 (D) a prequalified private provider to challenge an action of the State
6 when the complainant believes the State is in violation of State statute or rules
7 regarding prekindergarten education.

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

15 (A) programmatic details, including the number of children served,
16 the number of private and public prekindergarten programs operated, and the
17 public financial investment made to ensure access to quality prekindergarten
18 education;

19 (B) the quality of public and private prekindergarten education
20 programs and efforts to ensure continuous quality improvements through
21 mentoring, training, technical assistance, and otherwise; and

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

3 (11) To establish a process for documenting the progress of children
4 enrolled in prekindergarten education programs and to require public and
5 private providers to use the process to:

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

7 (B) collect and report child progress data to the Secretary of
8 Education on an annual basis.

9 (f) ~~Other provisions of law. Section 836 of this title shall not apply to this~~
10 ~~section. [Repealed.]~~

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

15 (h) ~~Geographic limitations.~~

16 (1) ~~Notwithstanding the requirement that a district pay tuition to any~~
17 ~~prequalified public or private provider in the State, a school board may choose~~
18 ~~to limit the geographic boundaries within which the district shall pay tuition by~~
19 ~~paying tuition solely to those prequalified providers in which parents and~~
20 ~~guardians choose to enroll resident prekindergarten children that are located~~

1 within the district's "prekindergarten region" as determined in subdivision (2)
2 of this subsection.

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

9 (A) shall not be smaller than the geographic boundaries of the school
10 district;

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

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

17 (3) If a school board chooses to pay tuition to providers solely within its
18 prekindergarten region, and if a resident prekindergarten child is unable to
19 access publicly funded prekindergarten education within that region, then the
20 child's parent or guardian may request and in its discretion the district may pay

1 ~~tuition at the statewide rate for a prekindergarten education program operated~~
2 ~~by a prequalified provider located outside the prekindergarten region.~~

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

6 (i) A child receiving prekindergarten education at a prequalified private
7 provider shall not receive both tuition for a publicly funded prekindergarten
8 education program pursuant to this section and a Child Care Financial
9 Assistance Program subsidy pursuant to 33 V.S.A. chapter 35, subchapter 2. A
10 sibling's participation in either the publicly funded prekindergarten education
11 program or the Child Care Financial Assistance Program shall not impact the
12 ability of the child to participate in the other program if it provides the greater
13 of the two payments for which the child is eligible.

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

15 § 4001. DEFINITIONS

16 As used in this chapter:

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

20 * * *

1 (C) The full-time equivalent enrollment for each prekindergarten
2 child as follows: If a child is enrolled in 10 or more hours of prekindergarten
3 education per week in a public school or receives 10 or more hours of essential
4 early education services per week, the child shall be counted as one full-time
5 equivalent pupil. If a child is enrolled in six or more but ~~fewer~~ less than 10
6 hours of prekindergarten education per week in a public school or if a child
7 receives ~~fewer~~ less than 10 hours of essential early education services per
8 week, the child shall be counted as a percentage of one full-time equivalent
9 pupil, calculated as one multiplied by the number of hours per week divided by
10 ~~ten~~ 10. A child enrolled in prekindergarten education for ~~fewer~~ less than six
11 hours per week in a public school or for any number of hours in a prequalified
12 private provider shall not be included in the district's average daily
13 membership. There is no limit on the total number of children who may be
14 enrolled in public school prekindergarten education program or who receive
15 essential early education services.

16 * * *

17 (15) "Prekindergarten child" means a ~~three- or four-year-old~~ three
18 or four years of age who is enrolled in a prekindergarten program offered by ~~or~~
19 ~~through~~ a school district pursuant to rules adopted under section 829 of this
20 title or who is receiving essential early education services offered pursuant to
21 section 2956 of this title. Prekindergarten child also means a ~~five-year-old~~

1 child five years of age who otherwise meets the terms of this definition if that
2 child is not yet eligible for or enrolled in kindergarten.

3 * * * Child Care Financial Assistance Program, Supplemental Child Care
4 Grants, and Prequalified Private Prekindergarten Education * * *

5 Sec. 3. 33 V.S.A. § 3505 is amended to read:

6 § 3505. SUPPLEMENTAL CHILD CARE GRANTS

7 (a)(1)(A) The Commissioner for Children and Families may reserve up to
8 one-half of one percent of the ~~child care family assistance program~~ Child Care
9 Financial Assistance Program funds for extraordinary financial relief to assist
10 child care programs that are at risk of closing due to experiencing financial
11 hardship. The Commissioner may provide extraordinary financial relief under
12 this subdivision (A) to both licensed and registered child care programs and to
13 child care programs that are in the process of becoming licensed or registered.

14 The Commissioner shall develop guidelines for providing assistance and shall
15 prioritize extraordinary financial relief to child care programs in areas of the
16 State with high poverty and low access to high quality child care.

17 ~~(B) If the Commissioner determines a child care program is at risk of~~
18 ~~closure because its operations are not fiscally sustainable, he or she may~~
19 ~~provide assistance to~~ In order to transition children who are currently served by
20 the a child care operator program that is closing to a new child care program in
21 an orderly fashion and to help secure other child care opportunities for children

1 ~~served by the program in an effort to minimize the disruption of services, the~~
2 Commissioner may provide assistance to the existing or new program to
3 minimize the disruption of services to the effected children.

4 (C) ~~The~~ As needed to implement this subdivision (1), the Commissioner
5 has the authority to request tax returns and other financial documents to verify
6 ~~the~~ a child care program's financial hardship and its ability to sustain or
7 increase operations.

8 (2) Annually on or before January 15, the Commissioner shall report to
9 the Senate Committee on Health and Welfare and to the House Committee on
10 Human Services regarding any funds distributed pursuant to subdivision (1) of
11 this subsection. Specifically, the report shall address how funds were
12 distributed and used. It shall also address results related to any distribution of
13 funds.

14 * * *

15 Sec. 4. 33 V.S.A. § 3512 is amended to read:

16 § 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;

17 ELIGIBILITY

18 (a)(1) The Child Care Financial Assistance Program is established to
19 subsidize the costs of child care for families that need child care services in
20 order to obtain employment, to retain employment, or to obtain training
21 leading to employment. Families seeking employment shall be entitled to

1 participate in the Program for up to three months and the Commissioner may
2 further extend that period. The Program shall support eligible families by
3 either:

4 (A) establishing services with a child care provider with whom the
5 Division has contracted or issued a grant for child care services; or

6 (B) providing a subsidy issued pursuant to subdivision (2) of this
7 subsection (a).

8 (2) The subsidy authorized by this subsection and the corresponding
9 family contribution shall be established by the Commissioner, by rule, and
10 shall bear a reasonable relationship to income and family size. The
11 Commissioner may adjust the subsidy and family contribution by rule to
12 account for increasing child care costs not to exceed 1.5 times the most recent
13 annual increase in the NAICS code 611, Educational Services. Families shall
14 be found eligible using an income eligibility scale based on the current federal
15 poverty level and adjusted for the size of the family. Co-payments shall be
16 assigned to the whole family and shall not increase if more than one eligible
17 child is enrolled in child care. Families with an annual gross income of less
18 than or equal to 175 percent of the current federal poverty guidelines shall not
19 have a family co-payment. Families with an annual gross income up to and
20 including 575 percent of current federal poverty guidelines, adjusted for family
21 size, shall be eligible for a subsidy authorized by this subsection. The scale

1 shall be structured so that it encourages employment. If the federal poverty
2 guidelines decrease in a given year, the Division shall maintain the previous
3 year's federal poverty guidelines for the purpose of determining eligibility and
4 benefit amount under this subsection.

5 * * *

6 (7) A child receiving prekindergarten education at prequalified private
7 provider shall not receive both tuition for a publicly funded prekindergarten
8 education program pursuant to subchapter 5 of this chapter and a Child Care
9 Financial Assistance Program subsidy pursuant to this section. A child shall
10 be eligible for only the greater of the two payments. A sibling's participation
11 in either the publicly funded prekindergarten education program or the Child
12 Care Financial Assistance Program shall not impact the ability of the child to
13 participate in the other program if it provides the greater of the two payments
14 for which the child is eligible.

15 * * *

16 Sec. 5. 33 V.S.A. § 3514 is amended to read:

17 § 3514. PAYMENT TO PROVIDERS

18 (a)(1) The Commissioner shall establish a payment schedule for purposes
19 of ~~reimbursing~~ paying providers for full- or part-time child care services
20 rendered to families who participate in the programs established under section
21 3512 or 3513 of this title. The payment schedule shall ensure timely payment

1 to child care providers by requiring payment in advance of or at the beginning
2 of the delivery of child care services. The payment schedule shall account for
3 the age of the children served, and all providers in the same child care setting
4 category shall receive ~~a reimbursement~~ payment in accordance with a rate
5 ~~payment~~ established by the Commissioner, which shall be dependent upon
6 whether the provider operates a child care center and preschool program,
7 family child care home, or afterschool or summer care program. The
8 ~~reimbursement~~ payment rate shall then be adjusted to reduce the differential
9 between family child care homes and center-based child care and preschool
10 programs by 50 percent.

11 (2) Payments shall be based on a child's authorized enrollment. The
12 Department, in consultation with the Office of Racial Equity and stakeholders,
13 shall adopt rules pursuant to 3 V.S.A. chapter 25 that define “enrollment” and
14 the total number of allowable absences to continue participating in the Child
15 Care Financial Assistance Program. The Department shall minimize
16 itemization of absence categories.

17 * * *

18 **Sec. 6. 33 V.S.A. chapter 35 is amended to read:**

19 **CHAPTER 35. CHILD CARE**

20 * * *

21 **Subchapter 6. Prekindergarten Education**

1 § 3551. PREQUALIFIED PRIVATE PREKINDERGARTEN EDUCATION

2 (a) A parent or guardian may choose to enroll a prekindergarten child in a
3 publicly funded prekindergarten education program operated by an available,
4 prequalified private provider of the parent or guardian's choice pursuant to
5 16 V.S.A. § 829 by providing written notice to the Department for Children
6 and Families, on a form created by the Department for this purpose, that the
7 child is or will be admitted to the prekindergarten education program operated
8 by a prequalified private provider.

9 (b)(1) Upon receiving written notice, the Department shall pay tuition to
10 the prequalified private provider for not more than 10 hours per week of
11 publicly funded prekindergarten education for 35 weeks annually from the
12 State portion of funding appropriating for the Child Care Financial Assistance
13 Program.

14 (2) The Department shall pay tuition on a schedule that does not inhibit
15 the ability of a parent or guardian to enroll a prekindergarten child in a private
16 prekindergarten education program or the ability of a prequalified private
17 provider to maintain financial stability.

18 (3) Prior to making an initial tuition payment, the Department shall enter
19 into an agreement with a prequalified private provider to which it will pay
20 tuition on behalf of a child regarding quality assurance, compliance with 16
21 V.S.A. § 829, and any other matters. The agreement shall require a

1 prequalified private provider to notify the Department if a prekindergarten
2 child for which it previously received a prekindergarten tuition payment is no
3 longer enrolled.

4 (c) A prequalified private provider may receive additional payment directly
5 from the parent or guardian only for prekindergarten education in excess of the
6 hours paid for by the Department pursuant to this section or for child care
7 services, or both.

8 (d) A child receiving prekindergarten education at a prequalified private
9 provider shall not receive both tuition for a publicly funded prekindergarten
10 education program pursuant to this section and a Child Care Financial
11 Assistance Program subsidy pursuant to subchapter 2 of this chapter. A
12 sibling's participation in either the publicly funded prekindergarten education
13 program or the Child Care Financial Assistance Program shall not impact the
14 ability of the child to participate in the other program if it provides the greater
15 of the two payments for which the child is eligible.

16 (e) As used in this section, "prekindergarten child," "prekindergarten
17 education," and "prequalified private provider" shall have the same meaning as
18 in 16 V.S.A. § 829.

19 Sec. 7. EFFECTIVE DATE

20 This act shall take effect on passage.

- 1 and that after passage the title of the bill be amended to read: “An act
- 2 relating to Child Care Financial Assistance Program, supplemental child care
- 3 grants, and prequalified private prekindergarten education”