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SENATE BILL NO. 54

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on February 26, 2024)

(Patron Prior to Substitute—Senator Locke)

A *BILL to amend and reenact § 22.1-289.03 of the Code of Virginia, relating to early childhood care and education system; need-based and demand-based funding; educator incentive; nonreverting fund to capture unspent early childhood care and education funding balances.*

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-289.03 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-289.03. Early childhood care and education system; establishment; need-based and demand-based funding, educator incentive, and nonreverting fund for early childhood care and education sites.

A. The Board shall establish a statewide unified public-private system for early childhood care and education in the Commonwealth to ensure that every child has the opportunity to enter kindergarten healthy and ready to learn. Such system shall be administered by the Board, the Superintendent, and the Department and shall be formed, implemented, and sustained through a structure that engages and leverages both state-level authority and regional-level public-private partnership assets.

B. It is the intent of the General Assembly that the system established pursuant to subsection A shall (i) provide families with coordinated access for referral to early childhood education programs, (ii) provide families with easy-to-understand information about the quality of publicly funded early childhood care and education programs, (iii) establish expectations for the continuous improvement of early childhood care and education programs, and (iv) establish shared expectations for early childhood care and education programs among the Department of Education, the Department of Social Services, local school divisions, and state and regional stakeholders.

C. The system established pursuant to subsection A shall consist of a combination of programs offered through (i) the Virginia Preschool Initiative, pursuant to § 22.1-289.09, or any other school-based early childhood care and education program; (ii) licensed programs, pursuant to Article 3 (§ 22.1-289.010 et seq.); and (iii) unlicensed programs, pursuant to Article 4 (§ 22.1-289.030 et seq.).

D. To address family demand and preferences for affordable, high-quality early childhood care and education services, state general funds that support the provision of services to families at early childhood care and education sites shall be provided as specified in the general appropriation act. Each year, no later than December 1, the Department shall report to the Governor, the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations the projected general funds needed for the upcoming two fiscal years based on a cost of quality rate per child in order to (i) maintain the current number of slots, (ii) increase the number of slots using a growth rate differential based on enrollment and parent demand growth in prior biennia, and (iii) increase the number of slots to fully accommodate parent demand and eliminate waitlists. Such projected general funds to meet such needs shall be based on:

1. An annual per-child cost determined through re-benchmarking for the Virginia Preschool Initiative;

2. An annual per-child cost based on the Department's federally approved alternative cost methodology for the Mixed Delivery Program;

3. An annual per-child cost based on the Department's federally approved alternative cost methodology for the Child Care Subsidy Program, which program shall be open to each child who is under the age of 13 in each family for as long as:

a. The family's income does not exceed 85 percent of the state median income;

b. The family includes at least one child who is five years of age or younger and has not started kindergarten; and

c. The family meets all other eligibility requirements;

4. Current program eligibility criteria; and

5. Maximization of regularly recurring federal funding including federal funding provided for the Child Care Subsidy Program, Early Head Start, or Head Start, or pursuant to Part B of the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1411 et seq.

No later than May 15 before each upcoming year, each regional entity established by the Board pursuant to subsection D of § 22.1-289.05 shall indicate the number of slots needed in the region for the Mixed Delivery Program, each local school division shall indicate the number of slots needed in the local school division for the Virginia Preschool Initiative, and each locality shall indicate the number of

60 slots needed in the locality for the Child Care Subsidy Program. The Department shall reallocate slots
61 with available funding as determined pursuant to this subsection no later than July 1. Following fall
62 enrollment periods, the Department shall make adjustments based on family preferences. In providing
63 funding for slots pursuant to this subsection, all current-year state general funds shall be expended first.
64 If waitlists for slots at early childhood care and education sites remain, available state general funds
65 from prior years shall be used to address family demand and preferences.

66 E. To strengthen the quality of, attract new educators to, and reduce staffing shortages and turnover
67 at early childhood care and education sites, there is hereby established an early childhood educator
68 incentive program to be administered by the Department, hereinafter known as RecognizeB5, whereby a
69 monetary incentive is provided to teachers who work directly with children for at least 30 hours per
70 week at early childhood care and education sites that participate in the uniform measurement and
71 improvement system established pursuant to subsection A of § 22.1-289.05 and known as VQB5, with the
72 exception of teachers who are employed by local school boards. The Department shall base the
73 distribution of funding pursuant to RecognizeB5 on the number of eligible teachers who provide services
74 that address the actual data and growth rate differentials from the prior year. The Department shall
75 submit to the General Assembly no later than December 1 of each year a report on the usage and
76 impact of RecognizeB5 and any plans to phase out or otherwise transition RecognizeB5 based on its
77 success in achieving the goals set forth in this subsection.

78 F. There is hereby created in the state treasury a special nonreverting fund to be known as the Early
79 Childhood Care and Education Fund, referred to in this section as "the Fund." The Fund shall be
80 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
81 donations, grants, bequests, or other funds received on its behalf shall be paid into the state treasury
82 and credited to the Fund. All balances of state general funds intended for the provision of services to
83 families at early childhood care and education sites that are unspent at the end of each fiscal year shall
84 not revert to the general fund but shall be paid into the state treasury and credited to the Fund. Interest
85 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
86 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
87 but shall remain in the Fund. Moneys in the Fund shall be used in the discretion of the Department
88 solely for the purpose of providing early childhood care and education services within the system
89 established pursuant to subsection A for children from birth to five years of age who have not yet
90 entered kindergarten based on parent demand. Expenditures and disbursements from the Fund shall be
91 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
92 Superintendent. The Superintendent shall include as part of the report on projected general fund needs
93 required pursuant to subsection D an analysis of Fund revenues, distributions, and balances.