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HOUSE BILL NO. 419

Offered January 10, 2024

Prefiled January 8, 2024

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

Patrons—Bulova, Gardner, Anthony, Bennett-Parker, Carr and Glass

Referred to Committee on Education

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; funding formula, 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 using a formula established and maintained by the Department that establishes the minimum funding and number of slots per biennium based on a cost of quality rate per child, actual data from the prior year, unserved waitlists, and a growth rate differential based on enrollment and parent demand growth in prior biennia. Such funding formula shall include (i) an annual per-child cost determined through re-benchmarking for the Virginia Preschool Initiative; (ii) an annual per-child cost based on the Department's federally approved alternative cost methodology for the Mixed Delivery Program; (iii) 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; and (iv) current program eligibility criteria. Such funding formula shall not affect 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. Pursuant to such funding formula, federal funding provided for the Child Care Subsidy Program is required to be maximized and fully expended before state general funds are expended. Additionally, pursuant to such funding formula, (a) no family whose gross income is at or below 200 percent of the federal poverty level shall be assessed a copayment for services provided through the Child Care Subsidy Program, the Mixed Delivery Program, or the Virginia Preschool Initiative; (b) any family whose gross income exceeds 200 percent of the federal poverty level may be assessed a copayment in an amount equal to no more than seven percent of the family's gross income for services provided through the Child Care Subsidy Program, the Mixed Delivery Program, or the Virginia Preschool Initiative; and (c) parents searching for employment who meet all other eligibility requirements for the Mixed Delivery Program shall be deemed eligible for participation in such program.*

No later than May 15 before each upcoming year, each regional entity established by the Board

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59 pursuant to subsection D of § 22.1-289.05 shall indicate the number of slots needed in the region for the
60 Mixed Delivery Program, each local school division shall indicate the number of slots needed in the
61 local school division for the Virginia Preschool Initiative, and each locality shall indicate the number of
62 slots needed in the locality for the Child Care Subsidy Program. The Department shall reallocate slots
63 with available funding as determined by the funding formula no later than July 1. Following fall
64 enrollment periods, the Department shall make adjustments based on family preferences. In providing
65 funding for slots pursuant to the funding formula, all current-year state general funds shall be expended
66 first. If waitlists for slots at early childhood care and education sites remain, available state general
67 funds from prior years shall be used to address family demand and preferences.

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

80 F. There is hereby created in the state treasury a special nonreverting fund to be known as the Early
81 Childhood Care and Education Fund, referred to in this section as "the Fund." The Fund shall be
82 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
83 donations, grants, bequests, or other funds received on its behalf shall be paid into the state treasury
84 and credited to the Fund. All balances of state general funds intended for the provision of services to
85 families at early childhood care and education sites that are unspent at the end of each fiscal year shall
86 not revert to the general fund but shall be paid into the state treasury and credited to the Fund. Interest
87 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
88 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
89 but shall remain in the Fund. Moneys in the Fund shall be used in the discretion of the Department
90 solely for the purpose of providing early childhood care and education services within the system
91 established pursuant to subsection A for children from birth to five years of age who have not yet
92 entered kindergarten based on parent demand. Expenditures and disbursements from the Fund shall be
93 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
94 Superintendent. The Superintendent shall submit to the General Assembly no later than December 1 of
95 each year a report on Fund revenues, distributions, and balances.