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## HOUSE BILL NO. 419

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 29, 2024)

(Patron Prior to Substitute—Delegate Bulova)

*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; 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 fund for early childhood care.**

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 for early childhood care and education shall be provided as specified in the general appropriation act. Each year, no later than November 1, the Department shall report to the Governor, the Chairs 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 in order to (i) maintain the current number of slots, (ii) increase the number of slots using a projected growth rate, 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 initiative identified in the appropriation act;*

*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 slots needed in the locality for the Child Care Subsidy Program. The Department shall reallocate slots with available funding from the Child Care Subsidy Program and Mixed Delivery Program as*

60 *determined pursuant to this subsection no later than July 1. Following fall enrollment periods, the*  
61 *Department shall make adjustments based on family preferences. In providing funding for slots pursuant*  
62 *to this subsection, all current-year state general funds shall be expended first. If waitlists for slots at*  
63 *early childhood care remain, available funds from the Early Childhood Care and Education Fund shall*  
64 *be used to address family demand and preferences.*

65 *E. There is hereby created in the state treasury a special fund to be known as the Early Childhood*  
66 *Care and Education Fund, referred to in this section as "the Fund." The Fund shall be established on*  
67 *the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants,*  
68 *bequests, or other funds received on its behalf shall be paid into the state treasury and credited to the*  
69 *Fund. Moneys in the Fund shall be used in accordance with the general appropriation act. Expenditures*  
70 *and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the*  
71 *Comptroller upon written request signed by the Superintendent.*