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HOUSE BILL NO. 1375**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations

on February 7, 2024)

(Patron Prior to Substitute—Delegate Gardner)

A *BILL to amend and reenact §§ 22.1-289.02 and 22.1-289.09 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 22.1-289.05:1, by adding in Article 2 of Chapter 14.1 of Title 22.1 sections numbered 22.1-289.09:1 through 22.1-289.09:10, and by adding in Chapter 14.1 of Title 22.1 articles numbered 2.1 and 2.2, consisting of sections numbered 22.1-289.09:11 through 22.1-289.09:15; and to repeal § 22.1-289.08:1 of the Code of Virginia, relating to early childhood care and education; publicly funded providers.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-289.02 and 22.1-289.09 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-289.05:1, by adding in Article 2 of Chapter 14.1 of Title 22.1 sections numbered 22.1-289.09:1 through 22.1-289.09:10, and by adding in Chapter 14.1 of Title 22.1 articles numbered 2.1 and 2.2, consisting of sections numbered 22.1-289.09:11 through 22.1-289.09:15, as follows:

§ 22.1-289.02. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Early childhood care and education entity" means a child day center, family day home, or family day system serving children under the age of five.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Head Start provider" means a public or private, nonprofit or for-profit organization or agency, including any community-based organization, as such term is defined in 20 U.S.C. § 7801, to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

"Publicly funded provider" means any (i) educational program provided by a school division or local government to children between birth and age five or (ii) child day program that receives state or federal funds in support of its operations that serves three or more unrelated children. *"Publicly funded provider" includes any Child Care Subsidy Program vendor, Mixed Delivery Grant Program provider, and Virginia Preschool Initiative program.* "Publicly funded provider" does not include any program for which the sole source of public funding is the federal Child and Adult Care Food Program (CACFP) administered by the U.S. Department of Agriculture Food and Nutrition Service.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Superintendent.

§ 22.1-289.05:1. Department; reporting on certain programs.

A. The Department shall collect from local Virginia Preschool Initiative programs and Mixed Delivery Grant Program providers all information necessary to compile a comprehensive report on the usage of state funds detailing the number of calculated slots and funding allocated to each such local program or provider

60 and the number of such slots that have been filled. Such comprehensive report shall be aggregated in a
61 manner that identifies:

- 62 1. Funding and the number of slots used to serve a student in a public school or non-public school setting;
- 63 2. The number of three-year-olds served;
- 64 3. The number of waitlist slots requested, offered, and provided; and
- 65 4. The number of students served whose families are at or below 130 percent of the federal poverty level,
66 above 130 percent but at or below 200 percent of the federal poverty level, above 200 percent but at or below
67 350 percent of the federal poverty level, and above 350 percent of the federal poverty level.

68 B. Each Virginia Preschool Initiative program shall (i) report the share of children with individualized
69 education programs in inclusive classrooms and (ii) if applicable, provide an explanation of the reasons that
70 the program has not met the target inclusion rate set forth in § 22.1-289.09:5 during the school year and
71 actions that the program could take to meet such target inclusion rate in the succeeding school year. The
72 comprehensive report required pursuant to subsection A shall describe each Virginia Preschool Initiative
73 program's progress toward meeting such target inclusion rate.

74 C. The Department shall submit the comprehensive report required pursuant to subsection A to the
75 Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and
76 Appropriations no later than December 31 of each year.

77 D. The Department, in collaboration with the Department of Social Services, shall prepare, submit by
78 October 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations and
79 the Senate Committee on Finance and Appropriations, and post on its website a Child Care and Development
80 Fund (CCDF) report that includes:

- 81 1. All expenditures from the previous fiscal year;
- 82 2. Current grant balances and obligation and liquidation deadlines;
- 83 3. All anticipated expenditures for the current and succeeding two fiscal years, broken down by mandated
84 and discretionary subsidies, administrative costs, and quality efforts;
- 85 4. Either (i) certification that the maximum amount of federal funds were drawn down in the preceding
86 fiscal year or (ii) identification of strategies for doing so in the succeeding fiscal year;
- 87 5. The number of mandated and discretionary subsidies provided, the number of providers receiving
88 CCDF funds, the overall number of child care providers, and the waitlist for services, by locality, for the
89 previous fiscal year, the current fiscal year, and the succeeding two fiscal years; and
- 90 6. An appendix with the most recently completed CCDF annual report as required by the federal Office of
91 Child Care.

92 **§ 22.1-289.09. Virginia Preschool Initiative established.**

93 A. ~~The General Assembly finds that effective prevention programs designed to assist children at risk of~~
94 ~~school failure and dropout are practical mechanisms for reducing violent and criminal activity and for~~
95 ~~ensuring that Virginia's children will reach adulthood with the skills necessary to succeed; to this end, the~~
96 ~~following program is hereby established. With such funds as are may be appropriated for this such purpose~~
97 ~~pursuant to the general appropriation act, the General Assembly hereby establishes there is hereby~~
98 ~~established the Virginia Preschool Initiative (hereinafter referred to in this article as VPI) as a grant program~~
99 ~~to be disbursed by the Department of Education to schools and community-based organizations to provide~~
100 ~~quality preschool programs for at least the duration of the school year, either full-day or half-day, for at-risk~~
101 ~~three-year-olds and four-year-olds who are unserved by Head Start programs and for at-risk five-year-olds~~
102 ~~who are not eligible to attend kindergarten or who did not have access to a sufficient preschool experience~~
103 ~~and whose families request preschool as the most appropriate placement. Final VPI placement decisions for~~
104 ~~eligible children shall be based on family and lead VPI agency input.~~

105 B. ~~Grants shall be used to provide at least half-day services for the length of the school year for at-risk~~
106 ~~three-year-old and four-year-old children who are unserved by Head Start programs and for at-risk five-year-~~
107 ~~olds who are not eligible to attend kindergarten. The services shall include quality preschool education;~~
108 ~~health services, including nutrition access programs; social services; parental involvement, including~~
109 ~~activities to promote family literacy; and transportation.~~

110 C. ~~The guidelines for quality preschool education and criteria for preschool education services may be~~
111 ~~differentiated according to the agency providing the services in order to comply with various relevant federal~~
112 ~~or state requirements.~~

113 ~~1. Any classroom that exceeds benchmarks set by the Board shall be staffed as follows: (i) at least one~~
114 ~~teacher shall be provided for any classroom with 10 students or fewer students; (ii) if the average daily~~
115 ~~membership in any classroom exceeds 10 students but does not exceed 20 students, at least one full-time~~
116 ~~teacher's aide shall be assigned to the classroom; and (iii) the maximum classroom size shall be 20 students.~~

117 ~~2. Any classroom that does not exceed benchmarks set by the Board shall be staffed as follows: (i) at least~~
118 ~~one teacher shall be provided for any classroom with nine or fewer students; (ii) if the average daily~~
119 ~~membership in any classroom exceeds nine students but does not exceed 18 students, a full-time teacher's~~
120 ~~aide shall be assigned to such classroom; and (iii) the maximum classroom size shall be 18 students.~~

121 ~~D. School divisions and other grantees may apply for and be granted waivers from these guidelines by the~~

122 Department of Education. Grants shall be distributed, with such funds as are appropriated for this purpose,
123 based on an allocation formula providing the state share of the grant per child, as specified in the
124 appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are not
125 eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding services for
126 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children in each locality
127 provided funding in the appropriation act.

128 E. Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may use
129 federal funds or local funds for this expansion or may seek funding through this grant program for such
130 purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent allocation,
131 to expand services to at-risk four-year-olds beyond the 60 percent goal.

132 F. In order for a locality to qualify for these grants, the local governing body shall commit to providing
133 the required matching funds, based on the composite index of local ability to pay. Localities may use, for the
134 purposes of meeting the local match, local or other nonstate expenditures for existing qualifying programs
135 and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds
136 received through this program shall be used to supplement, not supplant, any local funds currently provided
137 for preschool programs within the locality.

138 **§ 22.1-289.09:1. Proposals; technical assistance.**

139 A. Any locality that desires to participate in VPI shall submit a proposal through the chief administrator
140 of the locality by May 15 of each year. The chief administrator, in conjunction with the division
141 superintendent, shall identify a lead VPI agency within the locality. Such lead agency shall be responsible for
142 developing a local plan for the delivery of quality preschool services to at-risk children that demonstrates the
143 coordination of resources and the combination of funding streams in an effort to serve the greatest number of
144 at-risk four-year-olds and, if applicable, to serve at-risk three-year-olds. The plan shall also include a
145 mechanism for annually measuring and reporting unmet parental demand and preference.

146 B. Each VPI program proposal shall:

147 1. Demonstrate coordination with all parties necessary for the successful delivery of comprehensive
148 services, including the schools, child care providers, local social services agency, Head Start, local health
149 department, and other groups identified by the lead agency;

150 2. Identify the entities that were consulted and how the locality will ensure that federal funds are
151 preserved and maximized, including demonstrating compliance with Title I of the federal Elementary and
152 Secondary Education Act of 1965, P.L. 89-10, as amended, to ensure that a local educational agency
153 receiving Title I funding coordinates with Head Start programs and other early learning programs receiving
154 federal funds by developing memoranda of understanding with such agencies to coordinate services; and

155 3. Demonstrate a plan for supporting inclusive practices for children with identified special needs.

156 C. A local match, based on the composite index of local ability-to-pay, shall be required to fund a VPI
157 program proposal. In determining the state and local shares of funding, the composite index of ability-to-pay
158 shall be capped at 0.5000. For purposes of meeting the local match, localities may use local expenditures for
159 existing qualifying programs, provided, however, that at least 50 percent of the local match will be cash and
160 no more than 50 percent will be in-kind contributions consisting of cash outlays that are made by the locality
161 that benefit the VPI program but are not directly charged to the VPI program. The value of fixed assets shall
162 not be considered as an in-kind contribution for such purpose. Philanthropic or other private funds may be
163 contributed to the locality to be appropriated in its local budget and then utilized to meet the required local
164 match. Localities shall also continue to pursue and coordinate other funding sources, including child care
165 subsidies. VPI funds shall be used to supplement, not supplant, any funds currently provided for programs
166 within the locality. However, in the event a locality is unable to continue the previous level of support to
167 programs for at-risk four-year-olds from Title I of the federal Elementary and Secondary Education Act of
168 1965, P.L. 89-10, as amended, including due to adjustments to the allocation formula in the reauthorization
169 of such act as the federal Every Student Succeeds Act of 2015 (P.L. 114-95) or due to a percentage reduction
170 in a locality's Title I allocation in a particular year, the state and local VPI funds may be used to continue
171 services to such Title I students. Any locality so affected shall provide written evidence to the Superintendent
172 and request his approval to continue the services to Title I students.

173 D. Each VPI program proposal shall provide clear methods of service coordination for the purpose of
174 reducing the per-child cost for the service, increasing the number of at-risk children served, or extending
175 services for the entire year, or any combination thereof. Examples of such methods include:

176 1. Wraparound services whereby funds such as Child Care Subsidy Program funds administered by local
177 social service agencies are combined with funds for quality preschool education programs;

178 2. Wrap-out services whereby grant funds are utilized to purchase quality, comprehensive services for at-
179 risk four-year-olds within an existing setting that currently provides quality preschool education; and

180 3. Expansion of service whereby grant funds are utilized to purchase slots within existing programs such
181 as Head Start that provide comprehensive services to at-risk three-year-olds and at-risk four-year-olds.

182 E. Each VPI program proposal shall indicate the number of at-risk four-year-olds and, if applicable, at-

183 risk three-year-olds to be served and include eligibility criteria for participation in the VPI program that is
 184 consistent with the economic and educational risk factors stated in the Department's current VPI guidelines
 185 that are specific to (i) family income at or below 200 percent of federal poverty guidelines, (ii) homelessness,
 186 (iii) children whose parents are school dropouts, or (iv) children with disabilities or delays who are eligible
 187 for special education services under the federal Individuals with Disabilities Education Act (20 U.S.C. §
 188 1400 et seq.), regardless of household income. Notwithstanding the provisions of this subsection, (a) up to 15
 189 percent of a school division's slots may be filled based on locally established eligibility criteria so as to meet
 190 the unique needs of at-risk children in the community and (b) in the case of a locality that applies to the
 191 Superintendent for a waiver by which it demonstrates that more than 15 percent of the school division's slots
 192 are needed to meet the needs of at-risk children and that increasing eligibility will enable the maximization of
 193 federal funds and will not have a negative impact on access for other individuals currently being served,
 194 more than 15 percent of such school division's slots may be filled based on locally established eligibility
 195 criteria.

196 F. The Department shall provide technical assistance for VPI program administration and shall provide
 197 interested localities with information on models for service delivery and methods of coordinating funding
 198 streams, such as funds to match federal funds provided for child care pursuant to Title IV-A of the Social
 199 Security Act, to maximize funding without supplanting existing sources of funding for the provision of
 200 services to at-risk three-year-olds and at-risk four-year-olds. The Department shall prioritize technical
 201 assistance in the design of VPI programs for localities in which the majority of at-risk three-year-olds and at-
 202 risk four-year-olds are currently unserved.

203 **§ 22.1-289.09:2. Payments.**

204 The Department shall disburse state VPI funds to lead VPI agencies in localities. Such state funds and
 205 required local matching funds may be used to provide quality preschool education, health services, social
 206 services, parental involvement services, and transportation and shall not be used (i) until the local Head
 207 Start grantee certifies that all local Head Start slots are filled, (ii) for capital outlay, or (iii) to supplant any
 208 Head Start federal funds provided for local early education programs.

209 **§ 22.1-289.09:3. At-risk four-year-olds; calculations.**

210 A. The number of unserved at-risk four-year-olds in each locality shall be based on the projected number
 211 of kindergarten students, updated once each biennium for the Governor's introduced biennial budget bill. The
 212 Department shall biennially rebenchmark VPI per-pupil amounts using a formula similar to the current
 213 formula supporting public elementary and secondary education in the Commonwealth, including any cost of
 214 competing adjustments provided for specified localities.

215 B. For slots filled as of September 30 each year, grants shall be based on the state share of 100 percent of
 216 the per-pupil amount for a full-day or half-day program. For slots filled between October 1 and December 31
 217 each year, grants shall be based on the state share of the per-pupil amount for a full-day or half-day program
 218 prorated for the portion of the school year during which each child is served. Following the Department's fall
 219 student record collection each year, the Department shall project the number of additional slots that may be
 220 filled between October 1 and December 31 of such year. The Department may prorate state funding for slots
 221 filled between October 1 and December 31 each year if demand exceeds the amount of appropriated funds
 222 that are made available for such purpose.

223 C. By November 1 of each odd-numbered year, the Department shall determine an appropriate VPI
 224 nonparticipation rate by examining participation levels and unmet demand across all birth to five-year-old
 225 publicly funded early childhood programs and expected enrollment in the upcoming biennium and
 226 communicate such rate to the Department of Planning and Budget. The Governor's introduced biennial
 227 budget bill shall include the application of this nonparticipation rate.

228 **§ 22.1-289.09:4. At-risk three-year-olds.**

229 A. Funds shall be provided to serve at-risk three-year-olds who are residents of the Commonwealth and
 230 unserved by Head Start funding using criteria determined by the Department and subject to the amount of
 231 appropriated funds that are made available for such purpose. Localities may apply for such funds by May 15
 232 of each year and shall be selected on a competitive basis based on a demonstration of broad stakeholder
 233 support and the ability to (i) track outcomes for participating children; (ii) maximize federal and state funds
 234 to preserve existing birth to five-year-old slots, including certifying that all local Head Start slots are filled;
 235 (iii) support inclusive practices of children with identified special needs; and (iv) collaborate with the school
 236 division, the local department of social services, programs accepting Child Care Subsidy Program payments,
 237 Head Start providers, private child care providers, and early childhood special education and early
 238 intervention programs. Localities that meet any of the following criteria shall be prioritized for participation:
 239 (a) limited availability of child care options; (b) ability to provide programs serving children in private,
 240 mixed-delivery settings; or (c) demonstration of the full support of public and private providers in the
 241 locality.

242 B. Grants to serve at-risk three-year-olds shall be distributed based on the allocation formula for at-risk
 243 four-year-olds as set forth in § 22.1-289.09:3.

244 **§ 22.1-289.09:5. Children with disabilities.**

245 To ensure that children with disabilities have equitable opportunity for kindergarten readiness, all VPI
 246 programs shall meet or exceed a target inclusion rate for children with disabilities such that 10 percent of all
 247 children participating in the VPI program have an individualized education program (IEP) and are served in
 248 inclusive classrooms that include children who do not have an IEP. Any VPI program that is unable to meet
 249 such target inclusion rate shall include an explanation of the reasons for its inability to do so in its annual
 250 comprehensive report.

251 **§ 22.1-289.09:6. Instructional time; academic standards.**

252 A. Full-day VPI programs shall operate for a minimum of five and a half instructional hours per day,
 253 excluding breaks for meals, and half-day VPI programs shall operate for a minimum of three hours of
 254 classroom instructional time per day, excluding breaks for lunch. VPI programs may include unstructured
 255 recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any such
 256 calculation of minimum instructional hours per day, provided that such unstructured recreational time does
 257 not exceed 15 percent of total instructional hours.

258 B. No additional state funding shall be provided for VPI programs that operate for more than three hours
 259 but less than five and a half hours per day.

260 C. The Department shall establish academic standards for VPI programs that are in accordance with
 261 appropriate preparation for students to be ready to successfully enter kindergarten and align with the
 262 kindergarten Standards of Learning. Such academic standards shall be established in such a manner as to be
 263 measurable for student achievement and success. Students shall be required to be evaluated in the fall and in
 264 the spring by each participating school division, and each such school division shall certify that the VPI
 265 program follows the established academic standards in order to receive VPI funding.

266 **§ 22.1-289.09:7. Programs in first year of implementation.**

267 Any new VPI program in the first year of implementation that operates for less than a full school year
 268 shall receive state funds on a fractional basis determined by the pro rata portion of a school year program
 269 during which instruction is provided for 180 days or 990 teaching hours.

270 **§ 22.1-289.09:8. Waitlists.**

271 With such funds as may be available for such purpose pursuant to the general appropriation act, unused
 272 VPI funds shall be redistributed annually to support VPI program slots to serve children on waitlists based
 273 on criteria contained in guidelines established by the Department. Such guidelines shall require VPI
 274 programs to be notified of such redistribution no later than July 1 of each year. No such redistribution shall
 275 affect the allocation formula for the subsequent year.

276 **§ 22.1-289.09:9. Community provider add-on grants.**

277 A. With such funds as may be provided for such purpose pursuant to the general appropriation act, an
 278 add-on grant per child shall be provided to incentivize the mixed delivery of services through private
 279 providers and to minimize the difference between the amount of the per-pupil grant allocation and the per-
 280 pupil cost to serve a child in a community-based or private provider setting. Recipients of such add-on grants
 281 are encouraged to support classrooms that support inclusive practices for children with disabilities. In order
 282 to receive such add-on grant, each lead agency shall indicate in its proposal submitted pursuant to § 22.1-
 283 289.09:1 how many VPI slots will be provided in community-based or private provider settings. Community-
 284 based providers that are recipients of such grants and meet the expectations of the uniform measurement and
 285 improvement system established pursuant to § 22.1-289.05 shall be exempted from all regulatory and
 286 statutory provisions related to teacher licensure and qualifications.

287 B. The amount of such add-on grants for community-based providers shall be informed by the
 288 Department's methodology to estimate the actual cost of providing high-quality early childhood education
 289 services in community-based settings. This is not intended as a mandate to increase the individual amounts of
 290 these add-on grants or to increase the state appropriation supporting these add-on grants. The amount of the
 291 add-on grant plus the VPI per-pupil amount shall not exceed prevailing child care market rates in a
 292 particular region and shall align with Child Care Subsidy Program rates. The Department is authorized to
 293 prorate payments for these add-on grants so as not to exceed the available appropriation.

294 **§ 22.1-289.09:10. VPI classroom ratios.**

295 With such funds as may be appropriated for such purpose pursuant to the general appropriation act:

296 1. For any VPI classroom that exceeds benchmarks set by the Board, (i) one teacher shall be provided if
 297 the classroom includes 10 or fewer students, (ii) a full-time teacher's aide shall be provided in addition to the
 298 teacher if the classroom includes more than 10 students, and (iii) the maximum class size shall be 20
 299 students; and

300 2. For any other VPI classroom, (i) one teacher shall be provided if the classroom includes nine or fewer
 301 students, (ii) a full-time teacher's aide shall be provided in addition to the teacher if the classroom includes
 302 more than nine students, and (iii) the maximum class size shall be 18 students.

303 Article 2.1.

304 Child Care Subsidy Program.

305 **§ 22.1-289.09:11. Child Care Subsidy Program established.**

306 A. With such funds as may be appropriated for such purpose pursuant to the general appropriation act,

307 *there is hereby established the Child Care Subsidy Program (the Program) for the purpose of assisting*
 308 *families who meet certain eligibility criteria with the cost of child care provided by approved vendors. The*
 309 *Program shall be overseen by the Department and administered by the Department, the Department of Social*
 310 *Services, and local departments of social services. The Department, the Board, and the Department of Social*
 311 *Services, as applicable, shall establish rules, regulations, policies, procedures, and standards for the*
 312 *Program.*

313 *B. Notwithstanding any Board regulation to the contrary, the Department shall establish an annual target*
 314 *at the local level for the number of children who may be served by funds available for the Program.*

315 *C. In administering the Program, the Department and the Department of Social Services shall:*

316 *1. Ensure that the mandated child care forecast pursuant to the Virginia Initiative for Employment and*
 317 *Work Program of the Temporary Assistance for Needy Families (TANF) Program is funded through a*
 318 *combination of general funds and TANF and Child Care and Development Fund (CCDF) grants; and*

319 *2. Determine pursuant to a memorandum of agreement the amount of nongeneral funds to be transferred*
 320 *to the Department of Social Services to address costs associated with administration of the CCDF each year.*
 321 *Such amount shall be transferred from the Department to the Department of Social Services within the first*
 322 *30 days of the fiscal year. The Department of Social Services shall notify the Department of the amount*
 323 *required to be transferred for the next fiscal year transfer upon the enrollment of the budget bill, and such*
 324 *amount shall reflect the need identified in the forecast set forth in subdivision 1 and necessary adjustments*
 325 *based on changes to the budget bill as it is enacted in the general appropriation act.*

326 **§ 22.1-289.09:12. Child Care Subsidy Program Overpayment Fund established.**

327 *There is hereby created in the state treasury a special nonreverting fund to be known as the Child Care*
 328 *Subsidy Program Overpayment Fund, referred to in this section as "the Fund." The Fund shall be established*
 329 *on the books of the Comptroller. All overpayment moneys collected or recovered by the Department or any*
 330 *state or local agency contracted to administer the Program, net of any refunds due to the federal government,*
 331 *shall be paid into the state treasury and credited to the Fund, except as prohibited by federal law or*
 332 *regulation. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys*
 333 *remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general*
 334 *fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of covering the*
 335 *cost of providing training and supports to early childhood care and education entities. Expenditures and*
 336 *disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller*
 337 *upon written request signed by the Superintendent.*

338 *Article 2.2.*

339 *Mixed Delivery Grant Program.*

340 **§ 22.1-289.09:13. Mixed Delivery Grant Program established.**

341 *With such funds as may be appropriated for such purpose pursuant to the general appropriation act, there*
 342 *is hereby established the Mixed Delivery Grant Program (the Program) for the purpose of awarding grants*
 343 *on a competitive basis to a regional entity responsible for coordinating early childhood care and education*
 344 *services pursuant to § 22.1-289.05 (ready region) that enters into partnerships with local private early*
 345 *childhood care and education sites and other community organizations, as applicable, to provide, under the*
 346 *direction and leadership of the ready region, high-quality care and education for at-risk infants, toddlers,*
 347 *and preschool-age children. The Program shall be administered by the Virginia Early Childhood Foundation*
 348 *(the Foundation) in partnership with the Department. Consistent with the requirements set forth in this*
 349 *article, the Foundation and the Department shall establish policies, procedures, and standards for the*
 350 *Program.*

351 **§ 22.1-289.09:14. Program proposals.**

352 *A. Any ready region that desires to participate in the Program shall submit a proposal by May 15 of each*
 353 *year to the Foundation that includes a plan for the delivery of high-quality preschool services to at-risk birth*
 354 *to five-year-old children in private settings that demonstrates the coordination of resources and the*
 355 *combination of funding streams in an effort to serve the greatest number of at-risk children.*

356 *B. Each Program proposal shall demonstrate:*

357 *1. Coordination with all parties necessary for the successful delivery of comprehensive services, including*
 358 *schools, child care providers, local social services agencies, Head Start, local health departments, and other*
 359 *groups identified by the ready region;*

360 *2. A plan for supporting inclusive practices for children with disabilities;*

361 *3. A plan to transition the regional model into a sustainable program; and*

362 *4. A mechanism for annually measuring and reporting unmet parental demand and preference.*

363 *C. Each Program proposal shall indicate the number of at-risk children to be served and include*
 364 *eligibility criteria for participation in the Program that is consistent with the economic and educational risk*
 365 *factors stated in the Department's current Program guidelines that are specific to (i) family income at or*
 366 *below 200 percent of federal poverty guidelines, (ii) homelessness, (iii) children whose parents are school*
 367 *dropouts, or (iv) children with disabilities or delays who are eligible for special education services under the*

368 federal Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), regardless of household
369 income. Notwithstanding the provisions of this subsection, (a) up to 15 percent of Program slots may be filled
370 based on regionally established eligibility criteria so as to meet the unique needs of at-risk children in the
371 region and (b) in the case of a ready region that applies to the Superintendent for a waiver by which it
372 demonstrates that more than 15 percent of the school division's slots are needed to meet the needs of at-risk
373 children and that increasing eligibility will enable the maximization of federal funds and will not have a
374 negative impact on access for other individuals currently being served, more than 15 percent of Program
375 slots may be filled based on regionally established eligibility criteria.

376 **§ 22.1-289.09:15. Program requirements.**

377 A. Regional mixed delivery programs shall provide full-day or half-day services.

378 B. The Department may prorate payment so as not to exceed available appropriation.

379 C. Actual funding provided to the Foundation for the Program shall be based on the actual use of
380 allocated slots. Ready regions shall report to the Foundation on actual use of allocated slots, and any funds
381 allocated but not used for the provision of early childhood services shall be returned to the Department.

382 D. The Department shall establish academic standards for regional mixed delivery programs that are in
383 accordance with appropriate preparation for students to be ready to successfully enter kindergarten and
384 align with the kindergarten Standards of Learning. Such academic standards shall be established in such a
385 manner as to be measurable for student achievement and success. Students shall be required to be evaluated
386 in the fall and in the spring by each participating ready region, and each such ready region shall certify that
387 the regional mixed delivery program follows the established academic standards in order to receive Program
388 funding.

389 E. The Department shall require and ensure that all regional mixed delivery program classrooms have the
390 quality of their teacher-child interactions assessed through a rigorous and research-based observation
391 instrument in accordance with the uniform measurement and improvement system established pursuant to §
392 22.1-289.05 and known as VQB5.

393 F. Notwithstanding any other provision of law to the contrary, regional mixed delivery programs shall be
394 provided maximum flexibility in order to fully implement the associated goals and objectives of mixed
395 delivery models and shall be exempted from all regulatory and statutory provisions related to teacher
396 licensure requirements and qualifications.

397 G. Children served in regional mixed delivery programs pursuant to the Program shall be assigned
398 student identification numbers as provided in subsection B of § 22.1-287.03 to evaluate program outcomes
399 and to permit comparison with Virginia Preschool Initiative outcomes.

400 **2. That § 22.1-289.08:1 of the Code of Virginia is repealed.**