

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.

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

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

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

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

48 "Publicly funded provider" means any (i) educational program provided by a school division or
49 local government to children between birth and age five or (ii) child day program that receives state or
50 federal funds in support of its operations that serves three or more unrelated children. "Publicly funded
51 provider" includes any Child Care Subsidy Program vendor, Mixed Delivery Grant Program provider, and
52 Virginia Preschool Initiative program. "Publicly funded provider" does not include any program for which

53 the sole source of public funding is the federal Child and Adult Care Food Program (CACFP) administered
54 by the U.S. Department of Agriculture Food and Nutrition Service.

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

58 **§ 22.1-289.05:1. Department; reporting on certain programs.**

59 A. The Department shall collect from local Virginia Preschool Initiative programs and Mixed
60 Delivery Grant Program providers all information necessary to compile a comprehensive report on the
61 usage of state funds detailing the number of calculated slots and funding allocated to each such local
62 program or provider and the number of such slots that have been filled. Such comprehensive report shall
63 be aggregated in a manner that identifies:

64 1. Funding and the number of slots used to serve a student in a public school or non-public school
65 setting;

66 2. The number of three-year-olds served;

67 3. The number of waitlist slots requested, offered, and provided; and

68 4. The number of students served whose families are at or below 130 percent of the federal poverty
69 level, above 130 percent but at or below 200 percent of the federal poverty level, above 200 percent but
70 at or below 350 percent of the federal poverty level, and above 350 percent of the federal poverty level.

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

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

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

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

95 **§ 22.1-289.09. Virginia Preschool Initiative established.**

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

106 preschool experience and whose families request preschool as the most appropriate placement. Final VPI
107 placement decisions for eligible children shall be based on family and lead VPI agency input.

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

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

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

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

126 ~~D. School divisions and other grantees may apply for and be granted waivers from these guidelines~~
127 ~~by the Department of Education. Grants shall be distributed, with such funds as are appropriated for this~~
128 ~~purpose, based on an allocation formula providing the state share of the grant per child, as specified in the~~
129 ~~appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are~~
130 ~~not eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding~~
131 ~~services for 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children~~
132 ~~in each locality provided funding in the appropriation act.~~

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

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

143 **§ 22.1-289.09:1. Proposals; technical assistance.**

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

152 B. Each VPI program proposal shall:

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

156 2. Identify the entities that were consulted and how the locality will ensure that federal funds are
157 preserved and maximized, including demonstrating compliance with Title I of the federal Elementary and
158 Secondary Education Act of 1965, P.L. 89-10, as amended, to ensure that a local educational agency
159 receiving Title I funding coordinates with Head Start programs and other early learning programs

160 receiving federal funds by developing memoranda of understanding with such agencies to coordinate
161 services; and

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

163 C. A local match, based on the composite index of local ability-to-pay, shall be required to fund a
164 VPI program proposal. In determining the state and local shares of funding, the composite index of ability-
165 to-pay shall be capped at 0.5000. For purposes of meeting the local match, localities may use local
166 expenditures for existing qualifying programs, provided, however, that at least 50 percent of the local
167 match will be cash and no more than 50 percent will be in-kind contributions consisting of cash outlays
168 that are made by the locality that benefit the VPI program but are not directly charged to the VPI program.
169 The value of fixed assets shall not be considered as an in-kind contribution for such purpose. Philanthropic
170 or other private funds may be contributed to the locality to be appropriated in its local budget and then
171 utilized to meet the required local match. Localities shall also continue to pursue and coordinate other
172 funding sources, including child care subsidies. VPI funds shall be used to supplement, not supplant, any
173 funds currently provided for programs within the locality. However, in the event a locality is unable to
174 continue the previous level of support to programs for at-risk four-year-olds from Title I of the federal
175 Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended, including due to adjustments
176 to the allocation formula in the reauthorization of such act as the federal Every Student Succeeds Act of
177 2015 (P.L. 114-95) or due to a percentage reduction in a locality's Title I allocation in a particular year,
178 the state and local VPI funds may be used to continue services to such Title I students. Any locality so
179 affected shall provide written evidence to the Superintendent and request his approval to continue the
180 services to Title I students.

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

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

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

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

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

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

213 **§ 22.1-289.09:2. Payments.**

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

219 **§ 22.1-289.09:3. At-risk four-year-olds; calculations.**

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

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

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

238 **§ 22.1-289.09:4. At-risk three-year-olds.**

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

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

254 **§ 22.1-289.09:5. Children with disabilities.**

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

261 **§ 22.1-289.09:6. Instructional time; academic standards.**

262 A. Full-day VPI programs shall operate for a minimum of five and a half instructional hours per
263 day, excluding breaks for meals, and half-day VPI programs shall operate for a minimum of three hours
264 of classroom instructional time per day, excluding breaks for lunch. VPI programs may include
265 unstructured recreational time that is intended to develop teamwork, social skills, and overall physical

266 fitness in any such calculation of minimum instructional hours per day, provided that such unstructured
267 recreational time does not exceed 15 percent of total instructional hours.

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

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

276 **§ 22.1-289.09:7. Programs in first year of implementation.**

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

280 **§ 22.1-289.09:8. Waitlists.**

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

286 **§ 22.1-289.09:9. Community provider add-on grants.**

287 A. With such funds as may be provided for such purpose pursuant to the general appropriation act,
288 an add-on grant per child shall be provided to incentivize the mixed delivery of services through private
289 providers and to minimize the difference between the amount of the per-pupil grant allocation and the per-
290 pupil cost to serve a child in a community-based or private provider setting. Recipients of such add-on
291 grants are encouraged to support classrooms that support inclusive practices for children with disabilities.
292 In order to receive such add-on grant, each lead agency shall indicate in its proposal submitted pursuant

293 to § 22.1-289.09:1 how many VPI slots will be provided in community-based or private provider settings.
 294 Community-based providers that are recipients of such grants and meet the expectations of the uniform
 295 measurement and improvement system established pursuant to § 22.1-289.05 shall be exempted from all
 296 regulatory and statutory provisions related to teacher licensure and qualifications.

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

304 **§ 22.1-289.09:10. VPI classroom ratios.**

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

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

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

314 Article 2.1.

315 Child Care Subsidy Program.

316 **§ 22.1-289.09:11. Child Care Subsidy Program established.**

317 A. With such funds as may be appropriated for such purpose pursuant to the general appropriation
 318 act, there is hereby established the Child Care Subsidy Program (the Program) for the purpose of assisting
 319 families who meet certain eligibility criteria with the cost of child care provided by approved vendors.

320 The Program shall be overseen by the Department and administered by the Department, the Department
321 of Social Services, and local departments of social services. The Department, the Board, and the
322 Department of Social Services, as applicable, shall establish rules, regulations, policies, procedures, and
323 standards for the Program.

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

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

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

330 2. Determine pursuant to a memorandum of agreement the amount of nongeneral funds to be
331 transferred to the Department of Social Services to address costs associated with administration of the
332 CCDF each year. Such amount shall be transferred from the Department to the Department of Social
333 Services within the first 30 days of the fiscal year. The Department of Social Services shall notify the
334 Department of the amount required to be transferred for the next fiscal year transfer upon the enrollment
335 of the budget bill, and such amount shall reflect the need identified in the forecast set forth in subdivision
336 1 and necessary adjustments based on changes to the budget bill as it is enacted in the general appropriation
337 act.

338 **§ 22.1-289.09:12. Child Care Subsidy Program Overpayment Fund established.**

339 There is hereby created in the state treasury a special nonreverting fund to be known as the Child
340 Care Subsidy Program Overpayment Fund, referred to in this section as "the Fund." The Fund shall be
341 established on the books of the Comptroller. All overpayment moneys collected or recovered by the
342 Department or any state or local agency contracted to administer the Program, net of any refunds due to
343 the federal government, shall be paid into the state treasury and credited to the Fund, except as prohibited
344 by federal law or regulation. Interest earned on moneys in the Fund shall remain in the Fund and be
345 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
346 shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely

347 for the purpose of covering the cost of providing training and supports to early childhood care and
 348 education entities. Expenditures and disbursements from the Fund shall be made by the State Treasurer
 349 on warrants issued by the Comptroller upon written request signed by the Superintendent.

350 Article 2.2.

351 Mixed Delivery Grant Program.

352 **§ 22.1-289.09:13. Mixed Delivery Grant Program established.**

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

363 **§ 22.1-289.09:14. Program proposals.**

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

368 B. Each Program proposal shall demonstrate:

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

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

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

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

375 C. Each Program proposal shall indicate the number of at-risk children to be served and include
376 eligibility criteria for participation in the Program that is consistent with the economic and educational
377 risk factors stated in the Department's current Program guidelines that are specific to (i) family income at
378 or below 200 percent of federal poverty guidelines, (ii) homelessness, (iii) children whose parents are
379 school dropouts, or (iv) children with disabilities or delays who are eligible for special education services
380 under the federal Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), regardless of
381 household income. Notwithstanding the provisions of this subsection, (a) up to 15 percent of Program
382 slots may be filled based on regionally established eligibility criteria so as to meet the unique needs of at-
383 risk children in the region and (b) in the case of a ready region that applies to the Superintendent for a
384 waiver by which it demonstrates that more than 15 percent of the school division's slots are needed to
385 meet the needs of at-risk children and that increasing eligibility will enable the maximization of federal
386 funds and will not have a negative impact on access for other individuals currently being served, more
387 than 15 percent of Program slots may be filled based on regionally established eligibility criteria.

388 **§ 22.1-289.09:15. Program requirements.**

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

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

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

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

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

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

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

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

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