**SENATE . . . . . . . . . . . . . . . No. 2883** 

## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court (2021-2022)

SENATE, May 19, 2022.

The committee on Education, to whom was referred the petitions (accompanied by bill, Senate, No. 288) of Sonia Chang-Diaz, Elizabeth A. Malia, Patrick M. O'Connor and Joanne M. Comerford for legislation relative to universal prekindergarten access; (accompanied by bill, Senate, No. 312) of Sal N. DiDomenico for legislation to improve literacy skills; (accompanied by bill, Senate, No. 317) of Sal N. DiDomenico, Michael O. Moore, Brendan P. Crighton, James B. Eldridge and other members of the General Court for legislation relative to rates of payment for early childhood education and care programs; (accompanied by bill, Senate, No. 319) of Sal N. DiDomenico and James B. Eldridge for legislation to ensure high quality pre-kindergarten education; (accompanied by bill, Senate, No. 320) of Diana DiZoglio for legislation to establish an online system to process background checks by the Department of Early Education and Care; (accompanied by bill, Senate, No. 339) of Adam Gomez for legislation to create a disproportionate share childcare provider fund; (accompanied by bill, Senate, No. 358) of Jason M. Lewis and Jack Patrick Lewis for legislation to preserve early education support for families; (accompanied by bill, Senate, No. 362) of Jason M. Lewis, Susan L. Moran, Rebecca L. Rausch, Eric P. Lesser and other members of the Senate for legislation to provide affordable and accessible high quality early education and care to promote child development and well-being and support the economy in the Commonwealth; and (accompanied by bill, Senate, No. 393) of Walter F. Timilty, James M. Murphy and Hannah Kane for legislation to strengthen the background checks process, reports the accompanying bill (Senate, No. 2883).

> For the committee, Jason M. Lewis

## **SENATE . . . . . . . . . . . . . . . . No. 2883**

## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court (2021-2022)

An Act to expand access to high-quality, affordable early education and care.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- SECTION 1. The seventh paragraph of section 22N of chapter 7 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following sentence-
- Notwithstanding any provision to the contrary, childcare and school age programs
- 4 contracting with the department of early education and care or their agents shall be exempt from
- 5 the price limitations set forth by the bureau.
- 6 SECTION 2. Section 1A of Chapter 15D, as appearing in the 2018 Official Edition, is
- 7 hereby amended by inserting the following definitions:
- 8 "Caregiver" shall mean a person living with and exercising guardianship over at least one
- 9 child whose parents are not living in the home with them.
- 10 "High needs" shall mean needs that may render an individual or family more costly to
- serve, including but not limited to any physical, mental, emotional, intellectual, cognitive,
- behavioral, or health related disability or condition, exposure to domestic violence, trauma

history, limited English proficiency, limited literacy, homelessness or housing instability, income at or below the federal poverty line, or involvement with the department of children and families.

"Operational Grant" shall mean an amount of funding from the department to programs currently enrolling children receiving state early education and care subsidies or certifying their willingness to enroll a child receiving a state early education and care subsidy should a family choose the program and there is an available opening, which funding shall be used for educator compensation and credentialing as well as program quality and sustainability.

"Program" shall mean any childcare center, family childcare home, or out-of-school time program licensed or exempt by the department of early education and care located within the commonwealth of Massachusetts that provides early education and care programs and services.

"Subsidized child care provider" shall mean a child care center, a licensed family child care home, or an out-of-school time program licensed or exempt by the department located within the commonwealth of Massachusetts that provides early education and care programs and services to income eligible and at-risk children receiving state early education and care subsidizes, including programs that do not currently have a child receiving a subsidy enrolled, but have certified their willingness to enroll a child receiving a state early education and care subsidy should a family choose the program and there is an available opening.

SECTION 3. Section 2 of chapter 15D of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out subsection (e) and inserting in place thereof the following subsection:--

(e) establish and develop a schedule for revising: (i) a rate structure for voucher and contracted payments to providers of subsidized early education and care programs and services

on behalf of income eligible and other at-risk children that is adequate to meet the cost of providing high-quality early education and care programs to income eligible and other at-risk children in conformity with federal and state law, regulations and quality and safety standards; (ii) a sliding fee scale for participants in those programs which is updated at least every 5 years to reflect affordability standards for participating families; (iii) notwithstanding the provisions of any general or special law or regulation to the contrary, a method for reimbursement for voucher and contracted payments to providers of subsidized early education and care programs and services on behalf of income eligible and other at-risk children which is based on quarterly enrollment rather than daily attendance of participants.

A public hearing under chapter 30A and the approval of the board shall be required before the establishment or revision of the rate structure and sliding fee scale.

SECTION 4. Said section 2 of said chapter 15D, as so appearing, is hereby further amended by inserting after subsection (u) the following subsection:--

- (v) annually collect from early education and care providers licensed by the department, data on: (i) the number of employees by race and ethnicity, (ii) the pay rates and employer-paid benefits (iii) the tuition charged for full- and part-time early education and care services by age group, (iv) numbers of children enrolled by age group, family income range, race, ethnicity, country-of-origin, and preferred language
- SECTION 5. Said chapter 15D, as so appearing, is hereby further amended by inserting, after section 13, the following section:--
  - Section 13A. Early education and care subsidy program

(a) The department shall use, for the purpose of providing subsidies under this section, funding, from any source that is appropriated or otherwise provided to it for the purpose of subsidizing or reducing the costs to families of fees for early education and care for their children, including increasing per child rates set by the department.

- (b) The early education and care subsidy program shall, subject to appropriation, provide sufficient subsidies to enable all families to afford and access high-quality early education and care for infants, toddlers, preschool-age, and school-age children, as defined in section 1A of this chapter, provided that a school-age child's subsidy shall continue until at least the end of the school year in which the child reaches the maximum age.
- (c) Subsidies may be used for early education and care provided by public, private, non-profit, and for-profit entities licensed or approved by the department, including but not limited to: preschools, childcare centers, nursery schools, before and after school programs, out-of-school time programs, Head Start and Early Head Start programs, and independent and system-affiliated family childcare homes.
- (d) The department shall provide subsidies to families receiving services from the department of children and families as provided in section 2 of chapter 18B of the General Laws.
- (e) The department shall provide subsidies to recipients of transitional aid to families with dependent children and to families participating in education and training services provided by the department of transitional assistance and funded by the supplemental nutrition assistance program.
- (f) The department shall provide subsidies to families eligible in accordance with any income limits in effect under subsections (g) and (h) of this section.

(g) The department shall, subject to appropriation, subsidize the cost of early education and care services to all families in need of these services with incomes at or below 85 per cent of the Massachusetts state median income. Provided, should appropriations be insufficient to subsidize the cost of early education and care services to all families in need of these services with incomes at or below 85 per cent of the Massachusetts state median income, first priority shall be provided to those children whose family's household income is at or below 50 per cent of the Massachusetts state median income or a child with a documented disability whose family's household income is at or below 85 per cent of the Massachusetts state median income and to all children in families who are experiencing homelessness or who are headed by a parent under the age of 20. Provided further, second priority shall be given to children whose family's household income is above 50 per cent, but not exceeding 85 per cent of the Massachusetts state median income.

(h) Provided that additional funds shall be made available to the commonwealth through the Child Care Development Fund or that the federal government shall otherwise obligate itself to release additional funding not available upon the passage of this act, the department shall allocate funding to increase the numbers of families receiving subsidies based on income eligibility in stages: (i) to those eligible for subsidies as stipulated in subsection (g); (ii) to subsidize the cost of early education and care services to all families in need of these services, whose income is above 85 per cent, but not exceeding 100 per cent, of the Massachusetts state median income; (iii) to subsidize the cost of early education and care services to all families in need of these services, whose income is above 100 per cent, but not exceeding 110 per cent, of the Massachusetts state median income; (iv) to subsidize the cost of early education and care services to all families in need of these services, whose income is above 100 per cent, but not exceeding 110 per cent, but not

exceeding 125 per cent, of the Massachusetts state median income.(i) Family income, for the purposes of eligibility for early education and care subsidies shall include income of parents living with the child receiving subsidized care but shall not include: any form of income of foster parents, caregivers, or other adult family members; income of or for siblings who are not receiving subsidized care; or earned income of any minor child.

- (j) The department shall subsidize early education and care by: (i) providing vouchers for payment to providers, enabling families to access early education and care providers of their choice or (ii) offering families the alternative of an open space with a provider that is subsidized under the provider's contract with the department.
- (k) The department shall require early education and care providers, as a condition for receiving subsidies from the department under this section, to enter into and comply with contractual agreements with the department, developed by the department and requiring the provider to comply with all applicable requirements of this chapter and any other federal or state requirements necessary to receive funding for subsidies provided to families under this section.
- (1) The department and its agents shall not reduce, terminate, or deny continued subsidies to families until and unless the family is determined to be ineligible and is given the opportunity for an administrative appeal hearing. In situations in which the department or its agents deny a family's application for a subsidy, the department shall provide the family an opportunity for an administrative appeal hearing and shall process such appeals within 60 days from date requested.
- (m) The department and its agents shall not reduce, terminate, or deny continued subsidies to families based on their household income until and unless the household income

exceeds at least 85 per cent of the Massachusetts state median income or the income threshold for currently eligible families as prioritized in subsection (g) or (h), whichever is higher.

- (n) The department shall review the early education and care subsidy program at least annually to identify access barriers to families and opportunities to improve families' experience with the subsidy process, including but not limited to department paperwork and verification requirements. The department shall take action to remove any access barriers, including but not limited to: (i) making technological improvements, (ii) streamlining the application and renewal processes, (iii) improving outreach to potentially eligible families regarding the availability of subsidies and the process for applying, and (iv) improving access for families whose primary language is not English.
- (o) The department shall adopt any additional regulations necessary to implement the provisions of this section, after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments.
- SECTION 6. Said chapter 15D, as so appearing, is hereby further amended by adding the following sections:--
- Section 19. Notwithstanding the provisions of any general or special law or regulation to the contrary and subject to appropriation, the department in fulfilling its responsibility in subsection (e) of section 2 of chapter 15D shall establish and distribute operational grants.
- (a) Operational grants shall be used for educator compensation and credentialing as well as program quality and sustainability. Said operational grant uses shall include but not be limited to: (i) compensating early education and care provider staff through increased salaries, benefits,

bonuses, professional development, or access to continuing education opportunities; (ii) increasing affordability of early education and care to families by reducing the tuition and fees paid by families or offering scholarships to families; (iii) enabling early education and care providers to provide high-quality early education and care and to comply fully with all applicable health, safety, educational, quality-assurance, and other requirements of this chapter as well as any requirements imposed by the department consistent with this chapter; (iv) improving facilities and physical spaces used by the program; (v) enabling early education and care providers to address emergency situations, during which the cost of care significantly increases due to additional federal, state, or department requirements, or the loss of fees due to absence or unenrollment jeopardizes early education and care providers' ability to retain their facilities and staff; or (vi) enabling early education and care providers to maintain or increase capacity to provide voluntary supplemental services to enrolled children and their families, such as social work services, health and disability-related services, and support to parents and caregivers.

(b) The department shall establish a formula for distributing operational grants to programs which shall consider at a minimum the following: (i) the provider's current enrollment and the ages of the children enrolled; (ii) the location of the provider, availability of care in the area, and additional costs associated with the provider's location; (iii) the demographics of the families served by the program including how many children receiving subsidies attend, the income level of families, and other pertinent demographic data that may influence the needs of the families and children served; (iv) the number of children with high needs enrolled including those with disabilities, limited English proficiency, and other factors as determined by the department; (v) the cost of quality care methodology established by the department and until such time as the methodology is established, any available information regarding the cost of

quality early education and care including available credentialling frameworks and applicable salary guidelines; and (vi) any other factors impacting costs to the provider of providing quality care in areas of need such as serving infants and toddlers, providing non-standard hours of care, or providing care in areas that have overall shortages of early education and care slots. The department shall annually review and update this formula based on relevant data.

- (c) The department shall require early education and care providers, as a condition for receiving funding under this section, to: (i) enter into and comply with contractual agreements with the department, which shall be developed by the department; (ii) continue or begin to enroll children with subsidies through the department, provided the family chooses the provider and the provider has an available opening; (iii) comply with any recommended salaries or compensation put forth by the department; and (iv) provide data that the department requires, as needed to carry out the department's assessment and reporting requirements under this chapter.
- (d) Absent any changes in circumstances and assuming compliance with all requirements in subsection (c) and otherwise determined as necessary by the department, operational grants will be renewed to each provider annually.
- (e) A public hearing under chapter 30A and the approval of the board shall be required before the establishment or revision of the operational grant formula.
- Section 20. The board shall, subject to appropriation, establish the early education and care educator scholarship program for early education and care sector educators in the commonwealth pursuant to clause (10) of section 5 of this chapter.
- (a) The commissioner, in consultation with the commissioner of higher education, shall make recommendations to the board establishing appropriate guidelines, standards and

application criteria for the administration of the program, including mechanisms to ensure the scholarship provides meaningful improvements in the delivery of high-quality early education and care across the commonwealth.

(b) The scholarship program shall be administered by the department through a memorandum of understanding with the department of higher education.

- (c) The scholarship may be used to cover the cost of tuition, fees and related expenses, including supports unique to the diverse learning needs of the field such as personal childcare expenses in order to attend classes and class meetings, and other supports deemed appropriate by the board for degree granting programs for early educators who are pursuing associate or bachelor level degrees to meet the teacher and program quality standards of the department.
- (d) The amount of each scholarship shall, at a minimum, be sufficient to cover the full cost of tuition and associated fees for one semester of classes at a Massachusetts community college.
- (e) Eligible recipients shall be current or prospective early education and care educators and providers employed in early education and care programs in the commonwealth who commit to teaching in early education and care programs for a term of service after graduation to be determined by the board and shall reflect the diversity of the commonwealth's early education and care workforce.
- (f) Preference shall be given to applicants identified as providers who have displayed a proven commitment to early childhood education as demonstrated by longevity in the field.

(g) The program shall be administered by the department in a manner that ensures recipients receive adequate support in selecting programs and courses which lead to credentials and further their career in early education and care.

- (h) The board shall, subject to appropriation, establish the early education and care educator loan forgiveness program for early education and care sector educators in the commonwealth pursuant to clause (10) of section 5 of this chapter with preference given to applicants identified as providers who have displayed a proven commitment to early childhood education and who work in communities predominantly serving high needs children and families or areas with a shortage of early education and care slots.
- Section 21. The department of early education and care, the executive office of labor and workforce development and the commonwealth corporation in conjunction with the regional workforce boards shall develop strategies and prioritize programming and funding opportunities towards filling job positions in the early education and care field using existing resources pursuant to clause (12) of section 5 of this chapter.
  - Section 22. Annually, by February 15, the department shall report to the legislature on:
- (a) The cost and use of all early education and care subsidies provided by the department. The report shall include: (i) the total cost of the subsidies provided; (ii) the utilization of available contracted slots and vouchers by region and type of care provider; (iii) the total number of all children receiving early education and care subsidies by region, age, type of care, race and ethnicity, disability status of the child, primary language of the household, and income range of the household; (iv) the monthly average number of children on the department's subsidy wait list by region, age, type of care, race and ethnicity, disability status of the child, primary language of

the household, adults in the household, and income range of the household; and (v) the average monthly number and percentage of utilized contracted slots by region.

- (b) The cost and use of all allocations of funding to early education and care programs under this chapter, including identifying the providers funded, the amount the provider received, and information on the number of providers funded by region, ages served, type of provider, and percentage of enrolled children receiving subsidies.
- (c) Application information including: (i) the number of applications for subsidies; (ii) the numbers of applications for subsidies denied, broken out by the reason for denial; (iii) the numbers of requests for review made by families of the denial of their applications for or ending of their subsidies, broken out by the reason for denial of the application for or end of the subsidy and, of those, the numbers of requests for review that: (A) resulted in a decision that reversed the application denial or subsidy ending, (B) resulted in a decision that upheld the denial or ending of the family's subsidy, or (C) were undecided as of the end of the 12-month reporting period; and (iv) the number of requests for an administrative hearing made by families of the denial of their applications for or ending of their subsidies, broken out by the reason for denial of the application for or ending of the subsidy and, of those, the numbers (A) that resulted in a hearing decision that reversed the application denial or subsidy ending, (B) that resulted in a hearing decision that upheld the application denial or subsidy ending, (C) in which a hearing was not held as of the end of the 12-month reporting period, or (D) in which a hearing was held but the decision was not issued as of the end of the 12-month reporting period.
- (d) For providers including: (i) the number of employees by race and ethnicity; (ii) the salary bands and employer-paid benefits provided to employees, broken out by job position, and

within that, broken out by part-time and full-time employee designation, race and ethnicity, and job location within the commonwealth; and (iii) the levels of pay rates and employer-paid benefits compared to levels reported in the previous three reporting years. All reports issued under this section shall be posted on the department's website, in accordance with chapter 66.

SECTION 7. Not later than December 31, 2022, the executive office of labor and workforce development, in consultation with the department of early education and care, shall develop recommendations to the legislature requiring employers of a certain size to provide a childcare benefit. Consideration should be given to benefits such as: pre-tax childcare spending accounts funded in part by the employer, reduced tuition at a specific childcare provider, a stipend to be used for childcare at a location of the employee's choice, or the availability of onsite childcare, or other such strategies.

SECTION 8. Not later than December 31, 2022, the department of early education and care shall file a report with the clerks of the house and the senate, who shall forward the report to the chairs of the house and senate committees on ways and means, and the joint committee on education, on a plan to expand local partnerships including strategies and resources necessary to address community-based program expansion plans currently in development under the Commonwealth Preschool Partnership Initiative grant. The report shall identify means by which existing programming may be continued using existing resources available to providers in the mixed delivery system. The report shall also identify strategies for expanding the number of slots available in communities currently receiving Commonwealth Preschool Partnership Grants and best practices to expand local partnerships to more communities including through mixed delivery programs administered by the local school system, municipal scholarship programs

directly to families based on successful models already being implemented in certain municipalities, and other approaches to expand access to public high-quality care.

SECTION 9. Not later than December 31, 2022, the department of early education and care in consultation with the Children's Investment Fund and the Community Economic Development Assistance Corporation shall file a report with the joint committee on education detailing proposed improvements to the Early Education and Out of School Time Capital fund including, but not limited to, eligibility criteria, sizes of grants, ways to streamline the application process, any other parameters to increase the impact of this fund, and any data available on unmet need for early education and care facilities improvements.

SECTION 10. The department of early education and care, the executive office of labor and workforce development and the commonwealth corporation shall jointly conduct a study and report on enhancing the early education workforce pipeline to ensure that the early educator workforce meets the needs of the commonwealth. Said report shall include but not be limited to, providing the following recommendations: (i) recruitment of new early educators; (ii) the development of apprenticeship programs and non-traditional recruitment opportunities; and (iii) the retention of early educators. Said report shall take into consideration existing resources and may make recommendations regarding additional resources which would be required to fully implement the report. The department of early education and care, the executive office of labor and workforce development and the commonwealth corporation shall file its report with the clerks of the house of representatives and the senate, the joint committee on education, the joint committee on labor and workforce development, and the house and senate committees on ways and means no later than January 1, 2023.

SECTION 11. Not later than January 15, 2023, the department of early education and care shall file a report with the clerks of the house and the senate, who shall forward the report to the chairs of the house and senate committees on ways and means and the joint committee on education, on design and implementation plans for the early education and care educator scholarship program and loan forgiveness program pursuant to section 7 of this act.

SECTION 12. Not later than March 31, 2023, the department of early education and care shall assess the extent of current supply and the unmet needs of families eligible for subsidies, taking into account relevant differences among locations within the commonwealth including: (i) subsidized transportation of children to and from early education and care providers; (ii) early education and care services for time periods outside standard hours; (iii) substitute care on days on which the family's regular early education and care provider is unavailable; and (iv) any other factors that prevent families from accessing state early education and care subsidies and to assess the cost of addressing these unmet needs.

The department of early education and care shall file a report with the clerks of the house and the senate, who shall forward the report to the chairs of the house and senate committees on ways and means, and the joint committee on education.

SECTION 13. Not later than March 31, 2023, the department of early education and care shall establish a methodology that the department will use for assessing and updating the full costs of high-quality early education and care throughout the commonwealth. This methodology will be used to determine subsidy reimbursement rates and operational grant amounts which are adequate to help meet the cost of providing high-quality early education and care. The methodology shall take into account all aspects of providers' operations and responsibilities and

costs that vary with location, type of provider, age ranges of the children served, and service to children with high needs.

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The methodology shall include at least the following components: (i) pay and benefits to all staff, taking into account staff-to-child ratios needed depending on age ranges and service to children with high needs, as well as necessary non-educational staff activities, such as communications with families and department staff; (ii) professional development and instructional coaching for staff involved in the direct education and care of children; (iii) occupancy, including rent, utilities, maintenance, and improvements to physical environment; (iv) furnishings, appliances, equipment, office supplies and administration, including internet, telephone, insurance, permits, and taxes or fees; (v) educational supplies and curricula, observational tools, and toys; (vi) nutritious meals and snacks; (vii) transportation services for children to, from, and between early education and care providers, schools, and home; and (viii) costs of additional services to children and families with high needs including staff and staff training needed for accommodating children with disabilities or other high needs, interpreter services, mental health supports for children and staff, and staff time required to provide comprehensive family engagement and services to ensure effective early education and promote multi-generational success.

Said methodology shall annually be increased at the rate of inflation and the methodology shall be reassessed and accordingly adjusted no less than once every 5 years.

SECTION 14. Not later than March 31, 2023, the department of early education and care shall develop an early education and care career ladder pursuant to section 5 subsection 11 of chapter 15D. The department shall file a report to include: (i) a copy of the career ladder; (ii)

recommendations for linking professional development and educational credentials to increased compensation and leadership opportunities in the field of early education and care; (iii) minimum recommended salaries and compensation for each level of the career ladder which are commensurate with the salaries of public school teachers with equivalent credentials and training when required for a position; (iv) minimum recommended benefits for provider staff, including but not limited to health insurance, retirement benefits, paid vacation, and other leave time. The department shall review the compensation structure and benefits guidelines annually and update them, as needed, based on increased cost of living and other factors deemed relevant by the department to determine appropriate compensation for the field.

SECTION 15. Not later than October 1, 2023, the department of early education and care shall file a report with the clerks of the house and the senate, who shall forward the report to the chairs of the house and senate committees on ways and means and the joint committee on education a plan to pilot, scale, and evaluate on a regular basis shared services and quality licensed hubs for early education and care programs including family childcare providers.

SECTION 16. Within 180 days following passage of this act, the department of early education and care shall file a report with the clerks of the house and the senate, who shall forward the report to the chairs of the house and senate committees on ways and means, and the joint committee on education, on the steps required to implement this Act and a preliminary assessment of the funding and administrative resources that would aid the department in implementing this act, such as technological resources, technical expertise, and staffing of the department. This report shall be made publicly available on the department's website in accordance with section 19 of chapter 66 of the General Laws.