

**SENATE . . . . . No. 362**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Jason M. Lewis***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing affordable and accessible high quality early education and care to promote child development and well-being and support the economy in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/16/2021</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/16/2021</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>2/16/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/17/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/17/2021</i>
<i>John Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/17/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/18/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>2/18/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/19/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/22/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/23/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/23/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/23/2021</i>

<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/23/2021</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/23/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/25/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/1/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>3/1/2021</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/1/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>3/1/2021</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>3/1/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/4/2021</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>3/8/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/8/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/9/2021</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>3/9/2021</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/11/2021</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>3/12/2021</i>
<i>Adam J. Scanlon</i>	<i>14th Bristol</i>	<i>3/18/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/18/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/23/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/25/2021</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>3/25/2021</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/31/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>3/31/2021</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>4/2/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>4/2/2021</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>4/7/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>4/13/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/13/2021</i>

**SENATE . . . . . No. 362**

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By Mr. Lewis, a petition (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. Education.

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**The Commonwealth of Massachusetts**

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

An Act providing affordable and accessible high quality early education and care to promote child development and well-being and support the economy in the Commonwealth.

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

1 SECTION 1. Section 1A of chapter 15D of the General Laws is hereby amended by  
2 inserting, in alphabetical order among the terms defined in this section the following term and  
3 definition: -

4 “Administrative appeal”, an adjudicatory proceeding, as defined in section 1 of chapter  
5 30A of the General Laws, by which individual families may dispute decisions by the department  
6 affecting the family’s access to, retention of, hours covered by, or conditions of a subsidy and  
7 providers may dispute decisions by the department affecting the provider’s licensing by or  
8 receipt of funding from the department, or any other matter for which appeals are provided under  
9 this chapter.

10 “Caregiver”, a person living with and exercising parental control over at least one child  
11 whose parents are not living in the home with them.

12 “Department’s agents”, includes individuals and entities carrying out the purposes of this  
13 chapter, including regional child care resource and referral agencies and early education and care  
14 providers that participate in administering subsidies.

15 “Early education and care”, early education and child care services for infants, toddlers,  
16 and pre-school age children, and out-of-school child care for school-aged children.

17 “Early education and care provider”, an entity providing direct early education and care  
18 to children, subject to the requirements of this chapter.

19 “Family”, one or two parents or one or two caregivers living with at least one child.

20 “High needs”, needs that may render an individual or family more costly to serve,  
21 including needs related to any physical, mental, emotional, intellectual, cognitive, or behavioral  
22 disability or condition; adverse health conditions; exposure to domestic violence; trauma history;  
23 limited English proficiency; low reading level; experiencing homelessness or housing instability;  
24 extremely little or no income; involvement with the department of children and families; or risk  
25 of involvement with the department of children and families.

26 “Infant,” a person younger than the age of 1 year and 3 months.

27 “Spaces”, increments representing the number of children that an early education and  
28 care provider has the physical capacity to enroll and is licensed or approved to enroll, as distinct  
29 from the number of children actually enrolled or attending.

30 “Subsidies”, payments by the department to or for early education and care providers, as  
31 provided in section 13A of this chapter.

32 “Subsidy authorization period”, the period for which the department approves a subsidy  
33 for a child, at the end of which the department conducts an eligibility redetermination to  
34 determine whether the subsidy will be continued, terminated, or modified.

35 “Toddler”, a person between the age of 1 year and 3 months and the age of 2 years and 9  
36 months.

37 SECTION 2. Chapter 15D of the General Laws is hereby amended by inserting after  
38 section 2 the following section: -

39 Section 2A. Early education and care department; additional duties.

40 The department shall establish a revised funding structure under which the costs to early  
41 education and care providers of providing high quality early education and care services, as  
42 determined under subsection (e) of this section will be met fully by the combination of: (1)  
43 payment for the fees charged for the children served, whether paid by the department through  
44 subsidies under section 13A of this chapter or in whole or part by the family payments; (2) any  
45 direct funding paid by a source other than the department to providers, including under federal  
46 Head Start programs, 42 U.S.C. §§ 9831-9852a; and (3) direct funding to providers under section  
47 13B of this chapter.

48 With respect to funding provided under sections 13A and 13B of this chapter, the  
49 department shall:

50 (a) Ensure that the department, its agents, and early education and care providers that  
51 receive funding under section 13A or 13B of this chapter comply with all federal and state  
52 requirements relating to accommodating individuals with disabilities, including parents and

53 caregivers with disabilities who apply for or receive subsidies from the department or apply for  
54 or receive services from an early education and care provider, and children with disabilities,  
55 whose parents or caregivers request to enroll the child with or receive services from the provider.

56 The department shall establish and maintain a full-time director of disability access,  
57 responsible for:

58 (1) establishing procedures to (i) screen for the need for accommodations, (ii) engage  
59 with families regarding the specific accommodations needed, and (iii) provide these  
60 accommodations;

61 (2) ongoing assessment and implementation of the measures needed to ensure that the  
62 department's and its agents' methods of administration do not tend to result in lack of new or  
63 ongoing access to subsidies or early education and care services due to the disabilities of parents  
64 and caregivers or the disabilities of children;

65 (3) assisting the department to annually assess the costs to the department, its agents, and  
66 early education and care providers of compliance; and

67 (4) coordinating with the department of elementary and secondary education, the  
68 department of public health, and other agencies of the commonwealth that provide resources for  
69 individuals with disabilities, as needed to ensure consistent access to high quality early education  
70 and care.

71 (b) Ensure that (1) all oral communications with parents and caregivers by the department  
72 and its agents are conducted in a language that they are able to fully comprehend and  
73 communicate; (2) all written communications are provided in at least the 8 most prevalent non-

74 English languages in the commonwealth, in addition to English; (3) oral translation of documents  
75 is provided to parents and caregivers with limited English proficiency in a language that they are  
76 able to fully comprehend and communicate, if their language is one for which written translation  
77 is not available; (4) parents and caregivers are permitted to meet verification requirements with  
78 documents that are in the parent's or caregiver's language; (5) the parent or caregiver shall not be  
79 responsible for translating any documents into English; and (6) the parent or caregiver shall not  
80 be required to use English versions of forms that are available in their language.

81 (c) Ensure that the department, through its agents and employees, promptly responds to  
82 communications by parents and caregivers, including communications:

83 (1) requesting information regarding available and open early education and care spaces,  
84 subsidies under section 13A of this chapter, the status of parent's or caregiver's application for a  
85 subsidy or existing subsidy case, and any other matters;

86 (2) concerning applying for, increasing, retaining, or appealing denial or termination of  
87 these subsidies; and

88 (3) requesting assistance with applying for, increasing, retaining, or appealing denial or  
89 termination of these subsidies.

90 (d) EEC shall ensure that families with children with high needs are informed of  
91 openings with providers that focus on serving such families and children.

92 (e) Adopt regulations, after providing the opportunity for public comment, to be accepted  
93 through both testimony at public hearings and written comments, and after consideration of these  
94 comments, establishing a validated methodology that the department will use for assessing and

95 updating the full costs of high quality early education and care throughout the commonwealth,  
96 taking into account all aspects of providers' operations and responsibilities and costs that vary  
97 with location, type of provider, age ranges of the children served, and service to children with  
98 high needs. The methodology shall include the following components:

99 (1) Base costs

100 (i) Pay and benefits to all staff, including directors, consistent with section 13D of this  
101 chapter, taking into account staff-to-child ratios needed depending on age ranges and service to  
102 children with high needs, as well as necessary non-educational staff activities, such as  
103 communications with families and EEC staff;

104 (ii) Professional development and instructional coaching for staff involved in the direct  
105 education and care of children;

106 (iii) Occupancy, including rent, utilities, maintenance, and improvements;

107 (iv) Office supplies and administration, including internet, telephone, insurance, permits,  
108 and taxes or fees;

109 (v) Educational supplies and curricula, observational tools, and toys;

110 (vi) Nutritional meals and snacks; and

111 (vii) Furnishings, appliances, and equipment.

112 (2) Costs of services to children and families with high needs, including:

113 (i) Consultants and staff to conduct health, dental, and mental health screening and  
114 provide referrals;



115 (ii) Social work services, including assisting families in accessing financial and other  
116 resources to meet basic needs;

117 (iii) Free transportation services for children to, from, and between early education and  
118 care providers, schools, and home;

119 (iv) Staff and staff training needed for accommodating children with disabilities or other  
120 high needs;

121 (v) Staff and interpreter services for communication with parents and caregivers and  
122 serving children with limited English proficiency;

123 (vi) Staff time and services required to provide intensive or remedial educational and  
124 social-emotional programming; and

125 (vii) Staff time and services required to provide comprehensive family engagement and  
126 services to ensure effective early education and promote multi-generational success.

127 (3) Costs of compliance with all applicable federal and state requirements for receiving  
128 funding related to early education and care.

129 (4) Costs of addressing policy goals, including:

130 (i) Filling gaps in the availability of early education and care services spaces in locations  
131 within the commonwealth that have insufficient numbers of spaces for infants and toddlers,  
132 insufficient numbers of spaces for children of any age, or insufficient numbers of providers;

133 (ii) Meeting the need for early education and care services during nonstandard hours;

134 (f) Determine and annually update the full costs of high quality early education and care  
135 throughout the commonwealth, using the methodology required under subsection (e) of this  
136 section and after providing the opportunity for public comment, to be accepted through both  
137 testimony at public hearings and written comments, and after consideration of these comments.  
138 Until cost calculations are updated in accordance with this chapter, costs shall be increased  
139 annually at the rate of inflation as determined by the Consumer Price Index of the U.S. Bureau of  
140 Labor Statistics.

141 (g) Comply with all requirements related to applying for and receiving federal funding  
142 that is currently available or may become available to the commonwealth for use related to early  
143 education and care, including any applicable federal requirements for determining payment rates  
144 for the provision of federally-funded early education and care services, including under the Child  
145 Care and Development Block Grant Act, 42 U.S.C. § 9858c(c)(2)(M) and (c)(4). Such  
146 determinations, if required, shall be made in addition to the determinations required under  
147 subsection (f) of this section.

148 (h) Annually assess the costs of fully implementing subsections (a), (b), and (c) of this  
149 section and sections 13A, 13B, 13C, and 13D of this chapter, including the costs of  
150 implementing subsection (g) of section 13A separately for each paragraph, and the costs of high-  
151 quality early education and care under subsection (e) of this section, broken out by infant,  
152 toddler, preschool, and school-aged care, and taking into account relevant differences among  
153 locations within the commonwealth.

154 (i) Annually assess the extent of unmet needs of families eligible for subsidies under  
155 section 13A of this chapter, taking in account relevant differences among locations within the

156 commonwealth, for: (1) subsidized transportation of children to and from early education and  
157 care providers; (2) early education and care services for time periods outside standard hours; and  
158 (3) substitute care on days on which the family's regular early education and care provider is  
159 unavailable; and assess the cost of addressing these unmet needs.

160 (j) Annually collect from early education and care providers that receive funding from the  
161 department under section 13A or section 13B of this chapter, data on: (1) number of employees  
162 by race and ethnicity, (2) the pay rates and employer-paid benefits that they provide to their  
163 employees, broken out by job position, and within that, broken out by part-time and full-time  
164 employee designation, and (3) the fee rates charged for full-day and partial day early education  
165 and care services by age group, (4) numbers of children enrolled by age group, family income  
166 range, race, ethnicity, and country-of-origin, (5) the provider's desired enrollment by age group,  
167 as distinct from actual current enrollment.

168 (k) Within 60 days after the end of the first 12-month period following the effective date  
169 of this act and after the end of each 12-month period thereafter, unless a different time frame is  
170 specified, report regarding each 12-month period to the board, the secretary, the joint committee  
171 on education, and the house and senate committees on ways and means:

172 (1) The cost and use of all early education and care subsidies provided by the department.  
173 This report shall include, for each of the income ranges in paragraphs (i)-(v) of subsection (g) of  
174 section 13A of this act: (i) the total cost of the subsidies provided; (ii) the average daily number  
175 of children receiving early education and care subsidies; (iii) the total number of all children  
176 receiving early education and care subsidies at any point; (iv) the average daily number of  
177 children in the given income range on the department's subsidy wait list; (v) the total number of

178 children in the given income range on the department's subsidy wait list at any time; (vi) the  
179 average daily number of unused subsidized spaces contracted by the department with early  
180 education and care providers; and (vii) any significant variations among locations within the  
181 commonwealth relevant to the matters addressed under this paragraph.

182 (2) The allocation of subsidies among the categories of early education and care needs  
183 listed in subsection (d) of section 13A of this act. This report shall include, for each category of  
184 early education and care need: (i) the total cost of the subsidies provided; (ii) the average daily  
185 number of children receiving early education and care; (iii) the total number of all children  
186 receiving early education and care subsidies at any; (iv) the average daily number of children  
187 with the given early education and care need on the department's subsidy wait list; (v) the total  
188 number of children with the given early education and care need on the department's subsidy  
189 wait list at any time during the 12-month period; and (vi) any significant variations among  
190 locations within the commonwealth relevant to the matters addressed under this paragraph.

191 (3) The use of subsidies by families with access barriers. This report shall include, by the  
192 income ranges in paragraphs (i)-(v) of subsection (g) of section 13A of this act: (i) the average  
193 daily numbers, by language, of children, whose parent or caretaker has limited English  
194 proficiency, who received early education and care subsidies ; (ii) the total numbers, by  
195 language, of children, whose parent or caretaker has limited English proficiency, who received  
196 early education and care subsidies; (iii) the average daily numbers, by race and ethnicity, of  
197 children who received early education and care subsidies; (iv) the total numbers, by race and  
198 ethnicity, of children who received early education and care subsidies; (v) the average daily  
199 numbers of children with disabilities requiring accommodations or special services, who  
200 received early education and care subsidies; (vi) the total numbers, by type of disability, of

201 children with disabilities requiring accommodations or special services, who received early  
202 education and care subsidies; and (vii) any significant variations among locations within the  
203 commonwealth relevant to the matters addressed under this paragraph.

204 (4) The cost and use of all allocations of direct funding to early education and care  
205 providers under section 13B of this chapter, including identifying the providers funded, the  
206 amount the provider received, and the uses for which the funding was provided.

207 (5) Data for the 12-month reporting period providing: (i) the number of applications for  
208 subsidies; (ii) the numbers of applications for subsidies denied, broken out by the reason for  
209 denial; (iii) the numbers of instances of family subsidies ended during or at the end of a  
210 temporary subsidy authorization period, broken out by the reason that the subsidy ended; (iv) the  
211 numbers of instances of family subsidies ended prior to the end of a 12-month subsidy  
212 authorization period, broken out by the reason that the subsidy ended; (v) the numbers of  
213 instances of subsidies ended at the of the family's 12-month subsidy authorization period, broken  
214 out by the reason that the subsidy ended; (vi) the numbers of requests for review made by  
215 families of the denial of their applications for or ending of their subsidies, broken out by the  
216 reason for denial of the application for or end of the subsidy and, of those, the numbers of  
217 requests for review that: (a) resulted in a decision that reversed the application denial or subsidy  
218 ending, (b) resulted in a decision that upheld the denial or ending of the family's subsidy, or (c)  
219 were undecided as of the end of the 12-month reporting period; and (xi) the number of requests  
220 for an administrative hearing made by families of the denial of their applications for or ending of  
221 their subsidies, broken out by the reason for denial of the application for or ending of the subsidy  
222 and, of those, the numbers (a) that resulted in a hearing decision that reversed the application  
223 denial or subsidy ending, (b) that resulted in a hearing decision that upheld the application denial

224 or subsidy ending, (c) in which a hearing was not held as of the end of the 12-month reporting  
225 period, or (d) in which a hearing was held but the decision was not issued as of the end of the 12-  
226 month reporting period.

227 (6) For early education and care providers that receive funding from the department  
228 under section 13A or section 13B of this chapter, data from the 12-month period on: (i) the  
229 number of employees by race and ethnicity, (ii) the pay rates and employer-paid benefits  
230 provided to employees, broken out by job position, and within that, broken out by part-time and  
231 full-time employee designation, race and ethnicity, and job location within the commonwealth;  
232 (iii) the levels of pay rates and employer-paid benefits compared to levels reported in the  
233 previous three reporting years; (iv) the degree of deviation between actual reported pay and pay  
234 guidance developed under section 13D of this chapter, including levels of deviation from their  
235 previous three reporting years; and (v) the cost and use of all allocations of direct funding to  
236 early education and care employees under section 13C of this chapter, including the amount  
237 employees received and the uses for which the funding was provided.

238 (7) By February 1 of each year, the results of the determinations made under subsection  
239 (f) of this section, the assessments made under subsections (h) and (i) of this section, and the  
240 results of calculations used in the determination of the full costs of high quality care under  
241 subsections (e) and (f) of this section, including: (i) the average cost of providing early education  
242 and care per child broken out by infant, toddler, preschool, and school-aged care, taking into  
243 account staff-to-child ratios; (ii) details regarding the effect on the per-child cost of providing  
244 early education and care to children and families with high needs; and (iii) details regarding the  
245 effect on per-child cost of providing early education and care during nonstandard hours or in  
246 locations where there are insufficient numbers of spaces.

247 (l) Publish all reports issued under this section on the department’s website, in  
248 accordance with subsection (b) of section 19 of chapter 66.

249 SECTION 3. Section 3 of chapter 15D of the General Laws is hereby amended by  
250 inserting after subsection (c) the following paragraph: -

251 (13) to ensure, jointly with the commissioner, that the department complies with its  
252 obligations under this chapter.

253 SECTION 4. Section 4 of chapter 15D of the General Laws is hereby amended by  
254 striking out the sixth paragraph and inserting in place thereof the following paragraphs: -

255 The commissioner shall be responsible for ensuring that the department and its agents,  
256 including regional child care resource and referral agencies and any entity that participates in  
257 administering subsidies, complies with all requirements of this chapter. The department’s agents  
258 shall comply with any requests from the commissioner for information or corrective action that is  
259 necessary for the commissioner to carry out this responsibility, as determined by the  
260 commissioner.

261 The commissioner shall propose a budget to the board. The budget shall reflect the goals  
262 and objectives of this chapter and shall include:

263 (a) The costs of compliance with section 2A of this chapter, including fully  
264 accommodating: (1) children with disabilities; (2) families in which the parent or caregiver or the  
265 child has limited English proficiency; (3) families in need of nonstandard hours of care or care  
266 for certain age groups in specific locations; and (4) children and families with high needs

267 through voluntary supplemental services, such as social work services, health and disability-  
268 related services, and support to parents and caregivers; and

269 (b) The costs of fully implementing sections 13A, 13B, 13C, and 13D of this chapter,  
270 such that the costs to early education and care providers of providing high quality early  
271 education and care services, as determined under subsection (e) of section 2A of this chapter,  
272 would be fully met by the combination of: (1) payment for the fees charged for the children  
273 served, whether by the department through subsidies under section 13A of this chapter or in  
274 whole or part by the family; (2) any direct funding paid by a source other than the department to  
275 providers, including under the federal Head Start programs, 42 U.S.C. §§ 9831-9852c; and (3)  
276 direct funding to providers under section 13B of this chapter.

277 The board shall review the budget proposed by the commissioner and, if determined to  
278 meet the requirements of this section, recommend it to the secretary.

279 SECTION 5. Chapter 15D of the General Laws is hereby amended by inserting after  
280 section 13 the following sections:

281 Section 13A. Early education and care subsidy program

282 (a) The department shall use, for the purpose of providing subsidies under this section, all  
283 funding, from any source, that is appropriated or otherwise provided to it for the purpose of  
284 subsidizing or reducing the costs to families of fees for early education and care for their  
285 children, including increasing per child rates set by the department. The department shall not  
286 redirect any funding that it receives that is available for use for subsidies if this would result in a  
287 reduction of funding for subsidies.



288 (b) The early education and care subsidy program shall provide subsidies to enable all  
289 families to afford and access high quality early education and care for infants, toddlers,  
290 preschool-age, and school-age children, as defined in section 1A of this chapter, provided that a  
291 school-age child's subsidy shall continue until at least the end of the school year in which the  
292 child reaches the maximum age.

293 (c) Subsidies may be used for early education and care provided by public, private, non-  
294 profit, and for-profit entities licensed or approved by the department, including but not limited  
295 to: preschools, child care centers, nursery schools, before and after school programs, out-of-  
296 school-time programs, Head Start and Early Head Start programs, and independent and system-  
297 affiliated family child care.

298 (d) The department shall provide subsidies to families eligible in accordance within any  
299 income limits in effect under subsection (e) of this section, prioritizing:

300 (1) families in which early education and child care is needed to enable the parent or  
301 caregiver to seek, obtain, or retain employment or attend a training program, school, or other  
302 education program;

303 (2) families experiencing homelessness;

304 (3) families in which the parent or caregiver has a disability or disabilities that, in the  
305 absence of early education and care services, prevent the parent from receiving medical care or  
306 result in putting the child at risk of adverse impact on mental, emotional, physical, or  
307 developmental wellbeing;

308 (4) families within the 12-month transitional period after the department of children and  
309 families has closed their case;

310 (5) families experiencing domestic violence; and

311 (6) families in which the parent or caregiver needs or is in treatment for substance use  
312 disorder.

313 (e) The department shall provide subsidies to families receiving services from the  
314 department of children and families as provided in section 2 of chapter 18B of the General Laws.

315 (f) The department shall provide subsidies to recipients of transitional aid to families with  
316 dependent children as provided in subsection (j) of section 110 of chapter 5 of the acts of 1995,  
317 as amended by section 523 of chapter 151 of the actions of 1996, as further amended by section  
318 156 of chapter 43 of the acts of 1997, and to former recipients of transitional aid to families with  
319 dependent children as provided in subsection (f) of section 110 of chapter 5 of the acts of 1995,  
320 as amended by section 155 of chapter 43 of the acts of 1997.

321 (g) If appropriations are insufficient to provide subsidies for all eligible children in the  
322 commonwealth, the department shall allocate funding to increase the numbers of families  
323 receiving subsidies in stages, in accordance with the following income range priorities:

324 (1) First priority, to fully subsidize the cost of early education and care services to all  
325 families in need of these services, whose income is at or below 25% of the state median income  
326 and to all families who are experiencing homelessness or who are headed by a parent under age  
327 20;

328 (2) Second priority, to fully subsidize the cost of early education and care services to all  
329 families in need of these services, whose income is above 25%, but not exceeding 50%, of the  
330 Massachusetts state median income;

331 (3) Third priority, to subsidize the cost of early education and care services to all families  
332 in need of these services, whose income is above 50%, but not exceeding 85%, of the  
333 Massachusetts state median income, with any family fee set in accordance with paragraph (f) of  
334 this section;

335 (4) Fourth priority, to subsidize the cost of early education and care services to all  
336 families in need of these services, whose income is above 85%, but not exceeding 125%, of the  
337 Massachusetts state median income, with any family fee set in accordance with paragraph (f) of  
338 this section; and

339 (5) Fifth priority, to subsidize the cost of early education and care services to all families  
340 in need of these services, whose income is above 125% of the Massachusetts state median  
341 income, with any family fee set in accordance with paragraph (f) of this section.

342 (h) Amounts charged to families as their share of fees for any children who are not  
343 eligible for fully subsidized early education and care child care shall not exceed 7% of the  
344 family's total income and shall be determined by a sliding scale applied to the remainder of  
345 income after deducting 50% of the state median income.

346 (i) Family income, for the purposes of eligibility for early education and care subsidies  
347 shall include income of parents living with the child receiving subsidized care, but shall not  
348 include: any form of income of legal guardians, foster parents, caregivers, or other adult family

349 members; income of or for siblings who are not receiving subsidized care; or earned income of  
350 any minor child.

351 (j) The department shall subsidize early education and care by (1) providing vouchers for  
352 payment to providers, enabling families to access early education and care providers of their  
353 choice and (2) offering families the alternative of an open space with a provider that is  
354 subsidized under the provider's contract with the department.

355 (k) The department shall require early education and care providers, as a condition for  
356 receiving subsidies from the department under this section, to enter into and comply with  
357 contractual agreements with the department, developed by the department and requiring the  
358 provider to comply with all applicable requirements of this chapter and any other federal or state  
359 requirements necessary to receive funding for subsidies provided to families under this section.

360 (l) The department and its agents shall not reduce, terminate, or deny continued subsidies  
361 to families until and unless the family is determined to be ineligible and is given the opportunity  
362 for an administrative appeal hearing. In situations in which the department or its agents deny a  
363 family's application for a subsidy, the department shall provide the family an opportunity for an  
364 administrative appeal hearing and shall process such appeals within 60 days from date requested.

365 (m) The department shall not terminate or deny continued subsidies on the grounds of  
366 ineligibility based on income to families who were receiving subsidized early education and care  
367 as of the effective date of this section, as long as the family's income does not exceed 125% of  
368 Massachusetts state median income.

369 (n) The department shall not terminate or deny continued subsidies on the grounds of  
370 ineligibility based on income to families who began receiving subsidies under this section, as  
371 long as the family's income does not exceed 125% of Massachusetts state median income.

372 (o) To the extent not otherwise prohibited by federal or state law, the department shall not  
373 terminate or deny subsidies on the grounds of fee arrears for any arrears that accrued prior to  
374 implementation of paragraph (h) of this section or for any later arrears:

375 (1) Until and unless the family's fees and subsidy have been adjusted, prospectively and  
376 retroactively, to take into account any reduction in income, and the arrears reduced accordingly;  
377 and

378 (2) Until and unless the family has been offered an affordable payment plan, taking into  
379 account their income and expenses, and only if the family refused to enter into the plan. Disputes  
380 about the existence or amount of fee arrears and about the affordability of payment plans shall be  
381 subject to administrative appeal. The department shall accord early education and care providers  
382 the option of receiving department payment of arrears and repaying the department as the family  
383 makes payments under a payment plan.

384 (p) The department shall review the early education and care subsidy program at least  
385 annually to identify access barriers to families, including but not limited to department  
386 paperwork and verification requirements and the matters referred to in paragraphs (a), (b), and  
387 (c) of section 2A of this chapter, and shall take action to remove access barriers, including by  
388 technological improvements to enable management of larger numbers of families applying for  
389 and receiving subsidies and by ongoing improvement of families' experiences in dealing with the  
390 department and its agents.

391 (q) The department shall adopt any additional regulations necessary to implement the  
392 provisions of this section, after providing the opportunity for public comment, to be accepted  
393 through both testimony at public hearings and written comments, and after consideration of these  
394 comments.

395 Section 13B. Early education and care provider funding program

396 (a) The department shall establish a program of funding to early education and care  
397 providers to meet the full range of costs of high quality early education and care to the extent that  
398 fees, whether subsidized or unsubsidized, charged for the children receiving early education and  
399 care services do not meet these costs. This funding shall be used to address the following  
400 priorities:

401 (1) Expanding affordability of early education and care to families by reducing the  
402 percentage of early education and care costs that must be covered by fees charged for children  
403 receiving early education and care, whether subsidized or unsubsidized.

404 (2) Enabling early education and care providers to provide high-quality early education  
405 and care and to comply fully with all applicable health, safety, educational, quality-assurance,  
406 and other requirements of this chapter and requirements imposed by the department consistent  
407 with this chapter.

408 (3) Maintaining and increasing the supply of early education and care spaces in ways that  
409 address shortages in available spaces related to: location within the commonwealth, child age  
410 range, ability to serve children with disabilities, and ability to provide care during nonstandard  
411 hours.

412 (4) Compensating early education and care provider staff in accordance with the criteria  
413 set forth in section 13D of this chapter.

414 (5) Enabling early education and care providers to address emergency situations, during  
415 which the cost of care significantly increases due to additional federal, state, or department  
416 requirements, or the loss of fees due to absence or unenrollment jeopardizes early education and  
417 care providers' ability to retain their facilities and staff.

418 (6) Enabling early education and care providers to maintain or increase capacity to  
419 provide voluntary supplemental services to enrolled children and their families, such as social  
420 work services, health and disability-related services, and support to parents and caregivers.

421 (b) The department shall require early education and care providers, as a condition for  
422 receiving funding under this section, to:

423 (1) Enter into and comply with contractual agreements with the department, which shall  
424 be developed by the department;

425 (2) Continue or begin to enroll children with subsidies through the department, if the  
426 family chooses the provider;

427 (3) Comply with the compensation structure, as established and updated under section  
428 13D of this chapter or if the funding the provider receives is insufficient, increase compensation  
429 to the extent possible; and

430 (4) Provide data that the department requires, as needed to carry out the department's  
431 assessment and reporting requirements under this chapter.

432 (c) The department shall determine the amount of funding to be paid under this section to  
433 an early education and care provider and shall take into account the following factors:

434 (1) The provider's existing number of spaces for children, broken down by age range;

435 (2) The number of spaces for children, broken down by age range, that the provider  
436 would add if funded;

437 (3) Economies of scale, such that smaller providers may have higher costs in some areas  
438 necessitating proportionately higher funding;

439 (4) Numbers of children with high needs enrolled, or to be enrolled if the provider were  
440 funded;

441 (5) Any variation in costs to the provider due to location within the commonwealth; and

442 (6) Any increase in costs to the provider of providing, or beginning to provide, services in  
443 locations within the commonwealth that have shortages of spaces for particular age groups, such  
444 as infants and toddlers, or that have overall shortages of early education and care spaces.

445 (d) In the event of insufficient funding for all eligible early education and care providers,  
446 the department shall select providers based on the following criteria:

447 (1) The numbers of children with high needs currently enrolled with the provider;

448 (2) Whether the provider, if funded, would have the capacity and expertise to serve  
449 children with disabilities, or children with limited English proficiency or whose parents or  
450 caregivers have limited English proficiency;



451 (3) Whether the provider, if funded, would have the capacity and expertise to serve  
452 children and families with high needs, including the provision of the services listed in paragraph  
453 (2) of subsection (e) of section 2A of this chapter;

454 (4) Whether the provider, if funded, would increase services in locations within the  
455 commonwealth that have shortages of spaces for particular age groups, such as infants and  
456 toddlers, or that have overall shortages of early education and care spaces or unmet needs for  
457 nonstandard hours care; and

458 (5) Whether the provider, if funded, would implement proposed innovations that increase  
459 the quality of its early education and care services.

460 (e) The department shall accord to the early education and care providers to which the  
461 department allocates funding under this section a presumption of annual renewal if the provider  
462 has complied with all requirements and the appropriations for this section are not reduced such  
463 that renewal of all providers is not possible.

464 (f) The department shall use, for funding the purposes of the section, all funding from any  
465 source that is appropriated or otherwise provided to it for direct funding to early education and  
466 care providers.

467 (g) The department shall adopt regulations implementing the provisions of the section,  
468 after providing the opportunity for public comment, to be accepted through both testimony at  
469 public hearings and written comments, and after consideration of these comments.

470 Section 13C. Professional Development Grant Program

471 To assist with recruitment and retention and increase instructional and managerial quality  
472 in the early education and care field, the department shall establish a professional development  
473 grant program for individuals who are employed by an early education and care provider,  
474 working as a family child care provider, or seeking to work in the early education and care field.  
475 Under this program, the department shall provide scholarships, loan forgiveness, and other  
476 financial aid to enable individuals to achieve early education and care skills and credentials  
477 through relevant training and post-secondary certificate and degree programs. The board shall  
478 provide relevant information, if any, that it developed and updated as directed by section 5 of this  
479 chapter.

480 The department shall adopt regulations implementing this section, after providing the  
481 opportunity for public comment, to be accepted through both testimony at public hearings and  
482 written comments, and after consideration of these comments.

### 483 Section 13D. Early Education and Care Compensation to Individuals

484 (a) The department shall establish a compensation structure for provider staff involved in  
485 the direct education and care of children that is commensurate with annual pay scales for  
486 equivalent teacher positions in the public school system administered by the department of  
487 elementary and secondary education under chapter 69 of the General Laws, taking into account:  
488 job responsibilities; contractual requirements; and the skills, experience, and credentials of the  
489 individual.

490 (b) The department shall establish compensation guidelines for other provider staff not  
491 involved in the direct education or care of children that are competitive in the labor market for  
492 such staff, enabling providers to maintain stable staffing.

493 (c) The department shall establish guidelines for the minimum required benefits, and for  
494 recommended additional benefits, for provider staff, including but not limited to health  
495 insurance, retirement benefits, paid vacation, and other leave time.

496 (d) The compensation structure and guidelines under this section shall not preclude  
497 provider staff from exercising any rights they may have to collective bargaining about pay and  
498 benefits.

499 (e) The department shall review the compensation structure and benefits guidelines  
500 annually and update them, as needed, based on increased cost of living.

501 (f) The department shall adopt regulations implementing the provisions of this section,  
502 after providing the opportunity for public comment, to be accepted through both testimony at  
503 public hearings and written comments, and after consideration of these comments.

504 SECTION 6. Within 180 days following passage of this act, the department shall report  
505 to the house and senate committees on ways and means the steps required to implement this Act  
506 and a preliminary assessment of the funding and administrative resources that would aid the  
507 department in implementing section 5 of this act, such as technological resources, technical  
508 expertise, and staffing of the department and its. The department shall hold no fewer than three  
509 public meetings and incorporate feedback from families and advocates for families, early  
510 education and care providers and advocates for these providers, employers, and other  
511 stakeholders from across the commonwealth before the submission of this report. This report  
512 shall be made publicly available on the department's website in accordance with section 19 of  
513 chapter 66 of the General Laws.

514 SECTION 7. Nothing in this act shall be construed as altering the provisions in  
515 subsection (j) of section 110 of chapter 5 of the acts of 1995, as amended by section 523 of  
516 chapter 151 of the actions of 1996, as further amended by section 156 of chapter 43 of the acts of  
517 1997, for early education and care for current recipients of transitional aid to families with  
518 dependent children or the provisions in subsection (f) of section 110 of chapter 5 of the acts of  
519 1995, as amended by section 155 of chapter 43 of the acts of 1997, for early education and care  
520 for former recipients of transitional aid to families with dependent children.

521 SECTION 8. Nothing in this act shall be construed as altering the provisions of section 2  
522 of chapter 18B of the General Laws for early education and care for children whose families  
523 have an open case with the department of children and families.

524 SECTION 9. This act shall be implemented notwithstanding any provisions of chapter  
525 15D of the General Laws or any other general or special law to the contrary.

526 SECTION 10. The department shall fully implement this act within 5 years from the date  
527 of passage.

528 SECTION 11. This act shall take effect upon its passage.