VERMONT LEGISLATIVE
Joint Fiscal Office
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Fiscal Note
May 23, 2023 Joint Fiscal Office Staff

# H.217 – An act relating to child care, early education, workers' compensation, and unemployment insurance[1]

As passed by the General Assembly[2]

## Bill Summary

The bill as amended has two main parts: early care and education (sections 1 – 25) and workers compensation (sections 26 – 46). The bill would appropriate $76.1 million in fiscal year 2024 for the following:

- $107,500 to AOE to retain a contractor to assist the Prekindergarten Education Implementation Committee and pay per diem compensation and reimbursement of expenses for eligible members.
- $47.8 million to DCF to expand CCFAP eligibility and increase provider rates.
- $4 million to DCF to administer the adjustments to CCFAP.
- $20 million to DCF for one-time readiness payments to providers.
- $4.2 million to the Department of Taxes to be used for the implementation of a new payroll tax, including the establishment of 15 new permanent classified positions.

The bill would institute a new payroll tax, beginning in fiscal year 2025, called the Child Care Contribution. Revenues would be deposited into a new special fund, called the Child Care Contribution Fund.

The bill also takes into consideration a combination of one-time and base funding appropriated in H.494 (the "Big Bill") to cover the estimated costs associated with this bill in fiscal year 2024.[3] Annualized and other anticipated costs are estimated to be $124.8 million in fiscal year 2025.

Finally, the bill proposes to set the fiscal year 2024 workers' compensation contribution rates at the same levels as for fiscal year 2023 and to establish in statutes that in any given year when the General Assembly does not establish workers' compensation contribution rates, the rates would stay at the prior year's levels.

The following sections of the bill as amended by the Senate would have fiscal impacts. See the chart on the last page for a summary of the appropriations and revenues in the bill as amended.

[1] The bill as introduced was originally called "An act relating to miscellaneous workers' compensation amendments."
[2] https://legislature.vermont.gov/bill/status/2024/H.217
[3] https://legislature.vermont.gov/Documents/2024/Docs/BILLS/H-0217/H-0217%20As%20Passed%20by%20Both%20House%20and%20Senate%20Unofficial.pdf

# Prekindergarten Education Implementation Committee

### Section 2 – Prekindergarten Education Implementation Committee

Sec. 2 would create the Prekindergarten Education Implementation Committee to assist the Agency of Education in improving and expanding accessible, affordable, and high-quality prekindergarten education for children on a full-day basis on or before July 1, 2026. The 19-member committee would have the administrative, technical, fiscal, and legal assistance of both Agency of Education (AOE) and the Agency of Human Services (AHS). If the agencies are unable to provide the committee with adequate support, AOE would retain a contractor with the necessary expertise to assist the committee. The committee would cease to exist on February 1, 2025.

This section of the bill would appropriate the following amounts from the General Fund to AOE in fiscal year 2024:

- $7,500 for per diem compensation and reimbursement of expenses for eligible committee members.
- $100,000 for the cost of retaining a contractor.

Any funds not spent or obligated by July 1, 2025, would revert to the General Fund.

# Pupil Weighting

### Section 3 – Determination of Weighted Long-Term Membership and Per Pupil Education Spending

Sec. 3 would change the pupil weight for prekindergartners from -0.54 to 0.[4] Adjusting pupil weights impacts the tax capacity of school districts. By changing the weight, all else equal, some districts' tax rates would increase, while other districts' tax rates would decrease. A change in weights affects a district's per pupil spending calculation, which in turn affects the district's tax rate. In other words, assuming all education spending remains constant, some districts would have higher homestead property tax rates (those that have fewer pupils with the new weight than they had from the prior weight); and some districts would have lower homestead property tax rates (those that have more pupils with the new weight). Because local votes ultimately determine education spending, changing the prekindergarten pupil weight would directly impact the tax capacity of most school districts but would not determine the amount of funding a school district receives.

### Section 3a – Contingent Effective Date of Prekindergarten Education Weight Change

Sec. 3a creates a contingency for the change to the prekindergarten pupil weight. The pupil weight shall not be changed unless the General Assembly enacts legislation that establishes: the minimum number of hours for full-day prekindergarten; a requirement that all school districts follow the minimum number of hours; and a requirement that school districts follow the same contracting requirements for the provision of prekindergarten education

# Child Care Financial Assistance Program

### Sections 5a, 5b, and 5c – Child Care Financial Assistance Program (CCFAP) Eligibility

Sec. 5a would expand CCFAP – a State program that currently provides financial assistance for child care based on a family's income. The bill as amended would increase the number of families eligible for a $0 co-payment. Effective April 1, 2024, eligibility would expand from those with an annual gross income less than or equal to 150% of the Federal Poverty Level (FPL) to those with an annual gross income less than or equal to 175% FPL. It would also expand the income eligibility for CCFAP subsidies from 350% to 400% FPL, also effective April 1, 2024. Sec. 7 contains the appropriation to cover the estimated fiscal impact of this

[4] Pupil weights are used in Vermont's education finance formula to adjust student counts to account for the variation in costs incurred by schools serving different student needs or circumstances.

section.

Sec. 5b would allow Vermont residents who have citizenship status that would otherwise exclude their families from participating in CCFAP to be served by the program, provided that the benefit is solely State-funded. Sec. 7 contains the appropriation to cover the estimated fiscal impact of this section. While there is very limited data from which to estimate the fiscal impact of this section, JFO believes that this expansion is subsumed in its estimates, which took into consideration the entire population of Vermont children, not just those with the currently required citizenship status.

Sec. 5c would further expand eligibility for subsidies from 400% FPL to 575% FPL on October 1, 2024 (in fiscal year 2025).

**2023 ANNUAL Federal Poverty Levels (FPLs)**

| Household Size | 150% | 175% | 350% | 575% |
|---|---|---|---|---|
| 3 | $37,290 | $43,505 | $87,010 | $142,945 |
| 4 | $45,000 | $52,500 | $105,000 | $172,500 |
| 5 | $52,710 | $61,495 | $122,990 | $202,055 |

https://aspe.hhs.gov/poverty-guidelines

### Section 5d – Family Contribution

Sec. 5d would maintain the current family contribution for families at 176% FPL at $50 per week and increase progressively, as determined by DCF, for families at higher income levels, effective April 1, 2024. JFO modeled the family contributions as multiples of $25 per week, illustrated in the table below. Sec. 7 contains the appropriation to cover the estimated fiscal impact of this section.

**Federal Poverty Level (FPL) and Associated Weekly Family Contribution**

| Family Share (FPL) | </=150% | >150% to 175% | >175% to 200% | >200% to 225% | >225% to 250% | >250% to 275% | >275% to 300% | >300% to 325% | >325% to 350% |
|---|---|---|---|---|---|---|---|---|---|
| Current | $0 | $25 | $50 | $75 | $100 | $125 | $150 | $175 | $200 |
| Proposed | $0 | $0 | $50 | $75 | $100 | $125 | $150 | $175 | $200 |

Up to 575% FPL

### Section 6 – Provider Rate Adjustment

Sec. 6 would increase the rates paid to providers for children enrolled in CCFAP to levels that are 35% over the fiscal year 2023 five-STARS (highest quality) reimbursement rate, effective January 1, 2024.[5,6] These rate increases would become part of the DCF base budget in future fiscal years. Sec. 7 contains the appropriation to cover the estimated fiscal impact of this section.

### Section 7 – Appropriation

Sec. 7 would appropriate the following amounts from the General Fund to DCF's Child Development Division (CDD) in FY 2024:

- $47.8 million for the CCFAP expansion and rate adjustments in Secs. 5 through 9. Those funds cover the estimated FY 2024 fiscal impact for:
    - Increasing reimbursement rates to the five-STARS level.
    - Further increasing rates by 35% higher than the FY 2023 five-STARS rate[7]
    - Expanding eligibility for $0 co-pays from 150% FPL to 175% and increasing CCFAP eligibility from 350% FPL to 400% FPL.
- $4 million to administer the CCFAP expansion and rate adjustment in Secs. 5 through 6 including:
    - The creation of 11 new permanent classified positions within CDD.
    - At least $2 million to be allocated to the Community Child Care Support Agencies (CCCSAs)
    - $266,707 allocated to Building Bright Futures in Sec. 20.

[5] JFO estimates that a 35% rate increase is close to that amount needed to get halfway to the estimated total costs of care based on the 2022 Vermont Early Care and Education Financing Study conducted by the RAND Corporation.

[6] STARS (Step Ahead Recognition System) is Vermont's Quality Recognition and Improvement System for child care, preschool, and afterschool programs. STARS is currently one of several factors the State uses in determining the rate paid to a provider.

[7] This estimate includes rates increase for providers of both children 0-4 and school aged children.

### Section 8 – Readiness Payments

Sec. 8 would appropriate $20 million in one-time funds from the General Fund to CDD in fiscal year 2024 for readiness payments to providers to prepare for the CCFAP eligibility expansion and provider rate adjustments in Secs. 5 through 6. Up to 5% of the appropriation could be used to contract with a third party to provide technical assistance to child care providers.

### Sections 8a and 9a – Payments to Providers

Sec. 8a would require DCF to reimburse all providers using the fiscal year 2023 5-STARS rate. This language would decouple the rates paid to providers from the quality-rating system STARS going forward.

Sec. 9a would adjust reimbursement rates to account for the differential between family child care homes and center-based child care and preschool programs by 50% beginning July 1, 2024.
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### Sections 10 and 10a – Child Care Quality and Capacity Incentive Program

Sec. 10 would require DCF establish a new child care quality and capacity incentive program for providers participating in CCFAP. Providers would receive incentive payments for achievements that meet criteria as specified in the bill. The incentive payment program would begin on July 1, 2024. While the amount of the payments to be distributed to providers would be subject to future appropriations, the bill includes intent language in Sec. 10a that the appropriation for the program be at least $10 million in fiscal year 2025 and in future fiscal years.

## Transitional Assistance and Governance

### Sections 19 and 20 – Building Bright Futures

Sec. 19 would require that Building Bright Futures (BBF) be responsible for monitoring accountability, supporting stakeholders in collectively defining and measuring success, maximizing stakeholder engagement, and providing technical assistance to build capacity for CDD and AOE.

Sec. 20 would allocate $266,707 to BBF from the $4 million appropriated to DCF in Sec. 7. This allocation would become part of DCF's base budget.

## Child Care Contribution

### Sections 24 and 25 – Child Care Contribution

Sec. 24 would establish a Child Care Contribution in the form of a payroll tax levied on all wages and self-employment net income. Up to one-quarter of the payroll tax would be paid by employees, and employers would be responsible for at least three-quarters of the payroll tax but may opt to pay more. Employers are responsible for withholding employees' share of the contribution and remitting the full amount to the Vermont Department of Taxes. Employers and self-employed individuals are responsible for any unpaid contributions. The contribution rate would be 0.44 percent on wage income and 0.11% on self-employed net income starting July 1, 2024. **JFO estimates that the payroll tax would raise $81.9 million in FY 2025;[8] in FY 2026, an estimated $92.7 million would cover all fully implemented CCFAP policy changes.**

Several factors will affect payroll tax revenues moving forward. The revenue estimates are based on forecasted wage and self-employment net income growth. Businesses would be able to deduct their portion of the payroll tax contribution as an expense when filing their taxes, but some shifting between wage and non-wage compensation could occur. The tax revenues will be sensitive to wage growth and the strength of the job market.

[8] The FY 2025 amount represents 11 months of payroll tax collections.

This section would also create the Child Care Contribution Special Fund, to be administered by DCF and the Department of Taxes, for the purposes outlined in this bill. The payroll tax would be collected by the Department of Taxes and deposited in the Special Fund. DCF would receive appropriations from the Special Fund to execute the work outlined in the bill. In addition to the payroll tax, General Fund transfers and appropriations—as well as any interest earned by the Fund—would be deposited in the Special Fund.

Sec. 25 would establish 15 permanent positions in the Department of Taxes in FY 2024. The positions would include tax examiners for both taxpayer services and compliance, tax compliance officers, a financial specialist, and a business analyst. In FY 2024, $4.2 million is appropriated from the General Fund to the Department of Taxes for implementation purposes to cover new positions as well as IT development. The Department of Taxes estimates that ongoing administrative costs will be $2.3 million. The Special Fund may be used by the Department of Taxes to cover these ongoing administrative costs.

## Workers Compensation

### Sections 26 through 28

These sections propose to set the fiscal year 2024 workers' compensation contribution rates at the same levels as for fiscal year 2023. The direct calendar year premium for workers' compensation insurance would remain at 1.5 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations would remain at 1.0 percent.

This bill also proposes to establish in statute that in any year when the General Assembly does not establish workers' compensation contribution rates, the rates would stay at the prior year's levels. Additionally, the bill proposes to remove the sunset on current law that allows for a workers' compensation claimant to object to a discontinuation of benefits notice and seek an extension of benefits for 14 days while the objection is reviewed by the Department of Labor.

***JFO estimates that these sections of the bill would not result in any new impacts to State revenues or expenditures.*** The workers' compensation premium contribution rates, which are required to be set annually, would be unchanged from FY23 levels. Revenues from these premium contributions in FY24 are expected to be on par with current year levels, which would result in approximately $2.5 million in total revenues going to the Workers' Compensation Administration Fund. These sections would be effective upon passage.

Workers' Compensation Administration Fund (Secs. 26-27)

The following table has a summary of revenues going into the Workers' Compensation Administration Fund and expenses out of the fund over the two most recent completed fiscal years – 2021 and 2022, as well as revenues and expenses for 2023 to-date.[9] The fund has carried a significant balance from year to year, however the Department of Labor is undertaking an IT upgrade for the Workers' Compensation program that is expected to spend down some of this balance over the next few years. The employer rate of contribution was 1.4 percent in FY21 and FY22 and rose to 1.5 percent in FY23. The self-insured rate has been steady at 1.0 percent. The Department of Labor estimates that total annual revenues in FY23 and FY24 to the workers' compensation fund will likely be roughly equal to FY22 revenues.

[9] FY23 revenues and expenditures for the Workers' Compensation Administration Fund as of 2/27/2023.

| Workers' Compensation Administration Fund revenues and expenses (FY2021-2023) | FY2021 | FY2022 | *FY2023 (to-date)* |
|---|---|---|---|
| **Balance – beginning of year** | $7,262,904 | $8,624,354 | $6,980,407 |
| | | | |
| **Revenues** | | | |
| Employer Contribution | $2,191,392 | $2,261,209 | *$1,990,916* |
| Self-Insured Contribution | $264,419 | $204,223 | *$177,677* |
| Other | $216 | $285 | *$56* |
| **Total Revenues** | $2,456,026 | $2,465,717 | *$2,168,649* |
| | | | |
| **Expenses** | ($1,094,576) | ($4,109,664) | *($1,642,605)* |
| | | | |
| **Balance – end of year** | $8,624,354 | $6,980,407 | *unknown* |

Discontinuance of benefits (sec. 28)
Since July 1, 2014, per Act 199 of 2014, workers' compensation claimants have been able to file an objection to a proposed discontinuance of benefits from an employer and request a 14-day extension of benefits while the objection is reviewed. The Department of Labor reviews objections and issues decisions as to whether a discontinuance is reasonably supported or whether the benefits should continue. Per the Department, objections have made up a relatively small number of total discontinuance actions since the law was enacted and have not required much staff time. The Department does not believe that keeping this piece of statute in place would require any new staffing or resources.

## Fiscal Summary

The following chart highlights the appropriations and revenues in the bill as amended by the Senate.

**Summary of Appropriations and Revenues**

| Sec. | Appropriation | FY 2024 (Million $) | Est. FY2025 | Effective |
|---|---|---|---|---|
| 2 | Pre-K Implementatation Comm - Per Diems | $0.0075 | | 7/1/2023 |
| | Pre-K Implementatation Comm - AOE Contractor | $0.1 | | |
| 5-7, 9 | CCFAP Eligibility Expansion and Rate Increase | $47.8 | $107.3 | Sec. 7 & 8a - 7/1/2023<br>Secs. 5, 6, & 9 - 1/1/2024<br>Sec. 5a & 5d - 4/1/2024 |
| | DCF Admin. of CCFAP Expansion | $4.0 | $4.2 | Sec. 5b & 9a - 7/1/2024 |
| | - CCCSA's = At least $2 million | | | Sec. 5c - 10/1/2024 |
| 20 | - Building Bright Futures = $266,067 | | | 7/1/2023 |
| 8 | Readiness Payments (one-time) | $20.0 | - | 7/1/2023 |
| 10 | Quality & Capacity Incentives | - | $10.0 | 7/1/2024 |
| 25 | Child Care Contribution - Cost to State as an employer | - | $1.0 | 7/1/2024 |
| 25 | Tax Department - Admin. and Positions | $4.2 | $2.3 | 7/1/2023 |
| **Total Estimated Appropriation** | | **$76.1** | **$124.8** | |
| **H.494 (Big Bill) Funding** | | | | |
| | **FY24 One-time funding** | **($26.1)** | | |
| | **FY24 Base General Funds** | **($50.0)** | **($50.0)** | |
| **REVENUES** | | (Million $) | | |
| 24 | Child Care Contribution | - | $81.9 | 7/1/2024 |
| **Total New Revenues** | | **$0.0** | **$81.9** | |
| **REVENUES - EXPENSES** | | **$0.0** | **$7.1** | |