VERMONT LEGISLATIVE
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Fiscal Note

May 10, 2023

Joint Fiscal Office Staff

H.217 – An act relating to miscellaneous workers' compensation amendments

As amended by the Senate Committee on Appropriations[1]

Bill Summary

The bill as amended has two main parts: early care and education (sections 1 – 26) and workers compensation (sections 27 – 47). The following sections of the bill as amended by the Senate Committee on Appropriations would have fiscal impacts.

Summary of Appropriations and Revenues

Sec.	Appropriation	FY 2024 (x million)	Est. FY2025 (x million)	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	$106.7	Sec. 7 - 7/1/2023
	- 0-4 Rate & Eligibility Expansion = $43.7 million			Secs. 5, 6, & 9 - 1/1/2024
	- School Age Rate & Eligibility Exp. = $3.8 million			Sec. 5a & 5d - 4/1/2024
	DCF Admin. of CCFAP Expansion	$4.0	$3.0	Sec. 5b - 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
26	Tax Department - Admin. and Positions	$4.2	$2.3	7/1/2024
Total Estimated Appropriation		**$76.1**	**$123.0**	
H.494 (Big Bill) Funding				
	FY24 One-time funding	**($26.1)**		
	FY24 Base General Funds	**($50.0)**	**($50.0)**	
REVENUES		(x million)		
25, 26	Child Care Contribution	-	$82.1	7/1/2024
Total New Revenues		**$0.0**	**$82.1**	
REVENUES - EXPENSES		**($0.0)**	**$9.1**	

[1] https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Appropriations/Bills/H.217/Drafts,%20Amendments%20and%20Legal%20Documents/H.217~Katie%20McLinn~As%20Amended%20by%20Committee%20on%20Senate%20Appropriations%20-%207-0-0~5-9-2023.pdf

Prekindergarten Education Study Committee

Section 2 – Prekindergarten Education Study Committee

Sec. 2 would create the Prekindergarten Education Study Committee to make recommendations on how to improve and expand accessible, affordable, and high-quality prekindergarten education. The 14-member committee would examine and make recommendations regarding prekindergarten education for children three and four years in age, addressing issues such as outcomes, quality, capacity, demand, special education, public school expansion, funding, costs, and oversight. The bill appropriates the following amounts from the General Fund to the Agency of Education (AOE) in FY 2024:

- $5,000 for per diem compensation and reimbursement of expenses for eligible members of the committee.
- $100,000 for the cost of retaining a contractor.
- Any funds not spent by July 1, 2024, would revert to the General Fund.

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. Effective April 1, 2024, the bill as amended would increase the number of families eligible for a $0 co-payment, from those with an annual gross income less than or equal to 150% FPL to those with an annual income less than or equal to 175% FPL. It would also expand the income eligibility for CCFAP subsidies from 350% to 400% FPL. Sec. 7 contains the appropriation to cover the estimated fiscal impact of this section.

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

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 FY 2025).

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 FY 2023 five-STAR (highest quality) reimbursement rate effective January 1, 2024.[2] 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 6. Of those funds, the estimated FY 2024 fiscal impact for:
  - Increasing reimbursement rates to the five-STAR level is approximately $4.8 million.
  - Further increasing rates by 35% higher than the FY 2023 five-STAR[3] rate is approximately $38.3 million.[4]
  - Expanding eligibility for $0 co-pays from 150% FPL to 175% and increasing CCFAP eligibility from 350% FPL to 400% FPL is approximately $4.7 million.
- $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.

Section 8 – Readiness Payments

Sec. 8 would appropriate $20 million in one-time funds from the General Fund to CDD in FY 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 9 and 9a – Payments to Providers

Sec. 9 would require that DCF establish a payment schedule that would increase provider reimbursements over the previous year's rate annually in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, but not to exceed 5 percent.[5] Beginning January 1, 2024, payments would be based on enrollment (not attendance).

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 FY 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

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[2] JFO estimates that a 38.5% rate increase is that amount needed to get half-way to the estimated total costs of care based on the 2022 Vermont Early Care and Education Financing Study conducted by the RAND Corporation.

[3] 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.

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

[5] https://www.naics.com/naics-code-description/?code=611

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 25 and 26 – Child Care Contribution

Sec. 25 would establish a Child Care Contribution in the form of a payroll tax levied on wages and self-employment net income up to two times the Social Security contribution and benefit base, commonly called the taxable maximum. The Social Security taxable maximum is $160,200 in calendar year 2023, which would make the taxable maximum in Vermont on wages and self-employed net income up to $320,400. This maximum is indexed to average wages in the United States and is adjusted annually at the federal level.

Up to one-quarter of the payroll tax would be paid by employees, and at least three-quarters of the payroll tax would be paid by employers. Employers may opt to pay more than the minimum required three-quarters and are responsible for withholding from employees their 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 0.43 percent starting July 1, 2024. **JFO estimates that the payroll tax would raise $82.1 million in FY 2025[6] and $92.7 million in FY 2026** to cover all fully implemented CCFAP policy changes**.**

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 additional 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. 26 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 27 through 29

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 passage of this bill would not result in any <u>new</u> impacts to State revenues or expenditures. The workers' compensation premium contribution rates, which are required to be set

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

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. 27-29)
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.[7] 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.

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. 3)
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.

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