

HOUSE AMENDMENTS TO HOUSE BILL 3234

By COMMITTEE ON EDUCATION

April 24

1 On page 1 of the printed bill, line 2, delete “and”.

2 In line 4, after “329.200,” delete the rest of the line.

3 In line 10, delete “77” and insert “104”.

4 In line 11, after “2012” insert “; and declaring an emergency”.

5 In line 17, delete “learn” and insert “succeed”.

6 After line 19, insert:

7 **“SECTION 1a. The duties, functions and powers of the Early Learning Council relating**
8 **to the administration and enforcement of the Early Learning Council are imposed upon,**
9 **transferred to and vested in the Early Learning Division of the Department of Education for**
10 **the purpose of fulfilling the duties, powers and functions of the Early Learning Division.**

11 **“SECTION 1b. (1) The Early Learning System Director shall:**

12 **“(a) Deliver to the Department of Education all records and property within the juris-**
13 **isdiction of the director that relate to the duties, functions and powers transferred by section**
14 **1a of this 2013 Act; and**

15 **“(b) Transfer to the Department of Education those employees engaged primarily in the**
16 **exercise of the duties, functions and powers transferred by section 1a of this 2013 Act.**

17 **“(2) The Superintendent of Public Instruction shall take possession of the records and**
18 **property, and shall take charge of the employees and employ them in the exercise of the**
19 **duties, functions and powers transferred by section 1a of this 2013 Act, without reduction**
20 **of compensation but subject to change or termination of employment or compensation as**
21 **provided by law.**

22 **“(3) The Governor shall resolve any dispute between the Early Learning Council and the**
23 **Department of Education relating to transfers of records, property and employees under this**
24 **section, and the Governor’s decision is final.**

25 **“SECTION 1c. (1) The unexpended balances of amounts authorized to be expended by the**
26 **Early Learning Council for the biennium beginning July 1, 2013, from revenues dedicated,**
27 **continuously appropriated, appropriated or otherwise made available for the purpose of ad-**
28 **ministering and enforcing the duties, functions and powers transferred by section 1a of this**
29 **2013 Act are transferred to and are available for expenditure by the Department of Education**
30 **for the biennium beginning July 1, 2013, for the purpose of administering and enforcing the**
31 **duties, functions and powers transferred by section 1a of this 2013 Act.**

32 **“(2) The expenditure classifications, if any, established by Acts authorizing or limiting**
33 **expenditures by the Early Learning Council remain applicable to expenditures by the De-**
34 **partment of Education under this section.**

35 **“SECTION 1d. The transfer of duties, functions and powers to the Department of Edu-**

1 cation by section 1a of this 2013 Act does not affect any action, proceeding or prosecution
2 involving or with respect to such duties, functions and powers begun before and pending at
3 the time of the transfer, except that the Department of Education is substituted for the
4 Early Learning Council in the action, proceeding or prosecution.

5 “**SECTION 1e.** (1) Nothing in sections 1a to 1d of this 2013 Act relieves a person of a li-
6 ability, duty or obligation accruing under or with respect to the duties, functions and powers
7 transferred by section 1a of this 2013 Act. The Department of Education may undertake the
8 collection or enforcement of any such liability, duty or obligation.

9 “(2) The rights and obligations of the Early Learning Council legally incurred under
10 contracts, leases and business transactions executed, entered into or begun before the op-
11 erative date of section 1a of this 2013 Act accruing under or with respect to the duties,
12 functions and powers transferred by section 1a of this 2013 Act are transferred to the De-
13 partment of Education. For the purpose of succession to these rights and obligations, the
14 Department of Education is a continuation of the Early Learning Council and not a new au-
15 thority.

16 “**SECTION 1f.** Notwithstanding the transfer of duties, functions and powers by section
17 1a of this 2013 Act, the rules of the Early Learning Council with respect to such duties,
18 functions or powers that are in effect on the operative date of section 1a of this 2013 Act
19 continue in effect until superseded or repealed by rules of the Department of Education.

20 “**SECTION 1g.** Whenever, in any uncodified law or resolution of the Legislative Assembly
21 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
22 the context of the duties, functions and powers transferred by section 1a of this 2013 Act,
23 reference is made to the administration of the Early Learning Council, or an officer or em-
24 ployee of the Early Learning Council, whose duties, functions or powers are transferred by
25 section 1a of this 2013 Act, the reference is considered to be a reference to the Depart-
26 ment of Education or an officer or employee of the Department of Education who by this 2013 Act
27 is charged with carrying out such duties, functions and powers.”.

28 On page 2, line 12, delete “State Board of Education” and insert “Early Learning Council, acting
29 as the state advisory council for purposes of the federal Head Start Act.”.

30 In line 16, delete “board” and insert “council”.

31 In line 25, delete “State Board of”.

32 In line 26, delete “Education” and insert “Early Learning Council”.

33 In line 33, delete “State Board of Education” and insert “Early Learning Council”.

34 In line 45, delete “State Board of Education” and insert “Early Learning Council”.

35 On page 3, line 29, delete “State Board of Education” and insert “Early Learning Council”.

36 On page 4, line 30, delete “State Board of Education” and insert “Early Learning Council”.

37 In line 34, delete “board and”.

38 In line 38, delete “State Board of Education” and insert “Early Learning Council, acting as the
39 state advisory council for purposes of the federal Head Start Act.”.

40 On page 5, line 2, delete “board” and insert “council”.

41 In line 9, delete “board” and insert “council”.

42 In line 14, delete “State Board of Education” and insert “Early Learning Council, acting as the
43 state advisory council for purposes of the federal Head Start Act.”.

44 In line 23, delete “board” and insert “council”.

45 In line 30, delete “board” and insert “council”.

1 On page 6, delete lines 4 through 45 and delete page 7.

2 On page 8, delete lines 1 through 30 and insert:

3 **“NOTE:** Sections 13 through 18 were deleted by amendment. Subsequent sections were not re-

4 numbered.

5 **“SECTION 19.** Section 10, chapter 37, Oregon Laws 2012, is amended to read:

6 **“Sec. 10.** (1) The Early Learning [*Council*] **Division** Fund is established in the State Treasury,

7 separate and distinct from the General Fund. Interest earned by the Early Learning [*Council*] **Divi-**

8 **sion** Fund shall be credited to the fund.

9 “(2) Moneys in the Early Learning [*Council*] **Division** Fund consist of:

10 “(a) Amounts donated to the fund;

11 “(b) Moneys transferred to the fund from the federal government, state agencies and local gov-

12 ernments;

13 “(c) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

14 “(d) Investment earnings received on moneys in the fund; and

15 “(e) Other amounts deposited in the fund from any source.

16 “(3) Moneys in the fund are continuously appropriated to the [*Early Learning Council established*

17 *in section 4, chapter 519, Oregon Laws 2011,*] **Department of Education** for the purpose of fulfilling

18 the [*council’s*] duties, functions and powers **of the Early Learning Division.**

19 “(4) The [*council*] **department** may establish accounts and subaccounts within the fund when the

20 [*council*] **department** determines that accounts or subaccounts are necessary or desirable and may

21 credit any interest or income derived from moneys in the fund to any account or subaccount in the

22 fund.”.

23 On page 13, delete lines 15 through 29 and insert:

24 **“NOTE:** Section 27 was deleted by amendment. Subsequent sections were not renumbered.”.

25 On page 17, delete lines 31 through 45.

26 On page 18, delete lines 1 through 41.

27 In line 45, delete “37” and insert “36”.

28 On page 19, after line 18, insert:

29 **“SECTION 37. The duties, functions and powers of the Child Care Division of the Em-**

30 **ployment Department are imposed upon, transferred to and vested in the Early Learning**

31 **Division of the Department of Education.**

32 **“SECTION 37a. (1) The Director of the Employment Department shall:**

33 **“(a) Deliver to the Department of Education all records and property within the juris-**

34 **isdiction of the director that relate to the duties, functions and powers transferred by section**

35 **37 of this 2013 Act; and**

36 **“(b) Transfer to the Department of Education those employees engaged primarily in the**

37 **exercise of the duties, functions and powers transferred by section 37 of this 2013 Act.**

38 **“(2) The Superintendent of Public Instruction shall take possession of the records and**

39 **property, and shall take charge of the employees and employ them in the exercise of the**

40 **duties, functions and powers transferred by section 37 of this 2013 Act, without reduction**

41 **of compensation but subject to change or termination of employment or compensation as**

42 **provided by law.**

43 **“(3) The Governor shall resolve any dispute between the Employment Department and**

44 **the Department of Education relating to transfers of records, property and employees under**

45 **this section, and the Governor’s decision is final.**

1 **“SECTION 37b.** (1) The unexpended balances of amounts authorized to be expended by the
2 Employment Department for the biennium beginning July 1, 2013, from revenues dedicated,
3 continuously appropriated, appropriated or otherwise made available for the purpose of ad-
4 ministering and enforcing the duties, functions and powers transferred by section 37 of this
5 2013 Act are transferred to and are available for expenditure by the Department of Education
6 for the biennium beginning July 1, 2013, for the purpose of administering and enforcing the
7 duties, functions and powers transferred by section 37 of this 2013 Act.

8 **“(2)** The expenditure classifications, if any, established by Acts authorizing or limiting
9 expenditures by the Employment Department remain applicable to expenditures by the De-
10 partment of Education under this section.

11 **“SECTION 37c.** The transfer of duties, functions and powers to the Department of Edu-
12 cation by section 37 of this 2013 Act does not affect any action, proceeding or prosecution
13 involving or with respect to such duties, functions and powers begun before and pending at
14 the time of the transfer, except that the Department of Education is substituted for the
15 Employment Department in the action, proceeding or prosecution.

16 **“SECTION 37d.** (1) Nothing in sections 37 to 37c of this 2013 Act relieves a person of a
17 liability, duty or obligation accruing under or with respect to the duties, functions and pow-
18 ers transferred by section 37 of this 2013 Act. The Department of Education may undertake
19 the collection or enforcement of any such liability, duty or obligation.

20 **“(2)** The rights and obligations of the Employment Department legally incurred under
21 contracts, leases and business transactions executed, entered into or begun before the op-
22 erative date of section 37 of this 2013 Act accruing under or with respect to the duties,
23 functions and powers transferred by section 37 of this 2013 Act are transferred to the De-
24 partment of Education. For the purpose of succession to these rights and obligations, the
25 Department of Education is a continuation of the Employment Department and not a new
26 authority.

27 **“SECTION 37e.** Notwithstanding the transfer of duties, functions and powers by section
28 37 of this 2013 Act, the rules of the Employment Department with respect to such duties,
29 functions or powers that are in effect on the operative date of section 37 of this 2013 Act
30 continue in effect until superseded or repealed by rules of the Department of Education or
31 the Early Learning Council. References in such rules of the Employment Department to the
32 Employment Department or an officer or employee of the Employment Department are
33 considered to be references to the Department of Education or an officer or employee of the
34 Department of Education.

35 **“SECTION 37f.** Whenever, in any uncodified law or resolution of the Legislative Assembly
36 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
37 the context of the duties, functions and powers transferred by section 37 of this 2013 Act,
38 reference is made to the Employment Department, or an officer or employee of the Em-
39 ployment Department, whose duties, functions or powers are transferred by section 37 of this
40 2013 Act, the reference is considered to be a reference to the Department of Education or
41 an officer or employee of the Department of Education who by this 2013 Act is charged with
42 carrying out such duties, functions and powers.”.

43 On page 20, line 16, delete “office” and insert “Early Learning Council”.

44 In line 22, delete “office” and insert “Early Learning Council”.

45 In line 30, delete “office” and insert “Early Learning Council”.

1 In line 33, delete “office” and insert “Early Learning Council”.
2 On page 24, line 18, delete the second “office” and insert “Early Learning Council”.
3 In line 34, delete “office” and insert “Early Learning Council”.
4 In line 44, delete “office” and insert “Early Learning Council”.
5 On page 25, line 10, delete the second “office” and insert “Early Learning Council”.
6 In line 26, delete “office” and insert “Early Learning Council”.
7 In line 36, delete “office” and insert “Early Learning Council”.
8 Delete lines 40 through 45.
9 On page 26, delete lines 1 through 8 and insert:
10 “**SECTION 48.** ORS 657A.260 is amended to read:
11 “657A.260. (1) After consultation with appropriate agencies and interested persons, the [*Child*
12 *Care Division*] **Early Learning Council** by rule shall establish minimum standards for child care
13 facilities and the operation thereof and for the administration of ORS 657A.030 and 657A.250 to
14 657A.450.
15 “(2) In establishing minimum standards of health and safety, the [*division*] **council** shall consult
16 with the Oregon Health Authority and the State Fire Marshal and shall give consideration to their
17 recommendations and to all basic requirements for the protection of the children to receive child
18 care, including the criteria prescribed in ORS 657A.290, and may adopt rules applicable to different
19 categories of child care facilities, considering:
20 “(a) The numbers and ages of the children to receive care in the child care facility.
21 “(b) The number, experience and training of the staff of the child care facility.
22 “(c) The types and qualities of equipment and other factors in the physical plant of the child
23 care facility.
24 “(d) Any other factor affecting the care provided in the child care facility.”.
25 In line 23, delete “Child Care Office” and insert “Early Learning Council”.
26 In line 41, delete “Child Care Office” and insert “Early Learning Council”.
27 On page 27, line 2, delete “office” and insert “Child Care Office”.
28 In line 5, delete “office” and insert “Early Learning Council”.
29 Delete lines 20 through 39 and insert:
30 “**SECTION 52.** ORS 657A.280 is amended to read:
31 “657A.280. (1) A person may not operate a child care facility, except a facility subject to the
32 registration requirements of ORS 657A.330, without a certification for the facility from the Child
33 Care [*Division*] **Office**.
34 “(2) The [*Child Care Division*] **Early Learning Council** shall adopt rules for the certification
35 of a family child care home caring for not more than 16 children. The rules shall be specifically
36 adopted for the regulation of certified child care facilities operated in a facility constructed as a
37 single-family dwelling. Notwithstanding fire and other safety regulations, the rules that the [*Child*
38 *Care Division*] **council** adopts for certified child care facilities shall set standards that can be met
39 without significant architectural modification of a typical home. In adopting the rules, the [*Child*
40 *Care Division*] **council** may consider and set limits according to factors including the age of children
41 in care, the ambulatory ability of children in care, the number of the provider’s children present, the
42 length of time a particular child is continuously cared for and the total amount of time a particular
43 child is cared for within a given unit of time.
44 “(3) In addition to rules adopted for and applied to a certified family child care home providing
45 child care for not more than 16 children, the [*Child Care Division*] **council** shall adopt and apply

1 separate rules appropriate for any child care facility that is a child care center.

2 “(4) Any person seeking to operate a child care facility may apply for a certification for the
3 facility from the Child Care [Division] **Office** and receive a certification upon meeting certification
4 requirements.”.

5 On page 28, line 37, delete “office” and insert “Early Learning Council”.

6 On page 29, line 14, delete “office” and insert “Early Learning Council”.

7 In line 41, delete “office” and insert “Early Learning Council”.

8 On page 30, line 19, delete “office” and insert “Early Learning Council”.

9 In line 25, delete “office” and insert “Early Learning Council”.

10 In line 27, delete “office” and insert “Early Learning Council”.

11 On page 31, line 23, delete “office” and insert “Early Learning Council”.

12 On page 32, line 29, delete “Child Care Office, the”.

13 On page 33, delete lines 34 through 45.

14 On page 34, delete lines 1 through 35 and insert:

15 “**SECTION 68.** ORS 657A.706 is amended to read:

16 “657A.706. (1) For the purpose of implementing the program established under ORS 657A.703, the
17 [Child Care Division of the Employment Department] **Early Learning Council**, in collaboration with
18 an advisory committee established by the [Child Care Division] **council and the Child Care**
19 **Office**, shall:

20 “(a) Adopt rules.

21 “(b) Select a tax credit marketer who agrees to market tax credits to taxpayers.

22 “(c) Identify child care goals that are consistent with the purposes provided in ORS 657A.703
23 (2). The goals identified under this paragraph shall take into account state resources and needs.

24 “(d) Develop by rule the application process an entity must complete to be designated as a
25 community agency under ORS 657A.700 to 657A.718, and any process for the renewal of that desig-
26 nation.

27 “(e) Select one or more community agencies.

28 “(f) Enter into an agreement with each selected community agency to perform the functions
29 specified in ORS 657A.715.

30 “(g) Determine the total value of moneys to be available to each selected community agency to
31 distribute to providers based on goals identified under paragraph (c) of this subsection, and distrib-
32 ute those moneys in the manner provided in ORS 657A.712 to the selected community agencies. The
33 total value of moneys available to all selected community agencies in this state may not exceed the
34 amount of contributions received from taxpayers during the tax year minus any reasonable admin-
35 istrative costs incurred by the Child Care [Division] **Office** and the selected community agencies.

36 “(2) The [Child Care Division] **Early Learning Council** may adopt rules that establish a fixed
37 percentage that is less than 100 percent by which the amount contributed by a taxpayer will be
38 certified for a tax credit by the [division] **Child Care Office**. The purpose of the grant of
39 rulemaking authority under this subsection is to permit the [division] **Early Learning Council** to
40 calibrate the amount of the tax credit to interpretations of the deductibility of qualified contribu-
41 tions under section 170 of the Internal Revenue Code for federal tax purposes.

42 “(3)(a) The Child Care [Division] **Office** shall issue tax credit certificates in the chronological
43 order in which the contributions are received by the [division] **office**. The [division] **office** shall is-
44 sue tax credit certificates to contributors until the total value of all certificates issued by the [di-
45 vision] **office** for the calendar year equals \$500,000. Each issued certificate shall state the value of

1 the contribution being certified as eligible for the tax credit allowed under ORS 315.213. Except as
2 provided in rules adopted under subsection (2) of this section, the certified value shall equal the
3 amount of the contribution.

4 “(b) The Child Care *[Division]* **Office** may not issue a tax credit certificate to a taxpayer to the
5 extent the credit value to be certified, when added to the total credit value previously certified by
6 the *[Child Care Division]* **office** under paragraph (a) of this subsection for the calendar year exceeds
7 \$500,000.

8 “(c) The Child Care *[Division]* **Office** shall send a copy of all tax credit certificates issued under
9 this section to the Department of Revenue.

10 “(d) Qualified contributions shall be deposited in the Child Care Fund.

11 “(4) A taxpayer that receives a notice of denial of a tax credit certificate or that receives a tax
12 credit certificate issued for an amount that is less than the amount contributed may request a refund
13 for the amount contributed within 90 days of the *[Child Care Division’s]* **Child Care Office’s** denial
14 or issuance of the certificate. The Child Care *[Division]* **Office** must send notice of a denial or
15 changed amount and refund the amount for which a tax credit will not be granted within 30 days
16 after receiving the request. The refund shall be made from the Child Care Fund.

17 “(5) The *[Child Care Division]* **Early Learning Council** may establish by rule any other provisions
18 required to implement the program established under ORS 657A.700 to 657A.718.”.

19 On page 35, delete lines 6 through 17 and insert:

20 “**SECTION 70.** ORS 657A.712 is amended to read:

21 “657A.712. (1) The *[Child Care Division of the Employment Department]* **Child Care Office** shall
22 distribute revenues in the Child Care Fund that are derived from contributions, minus the amounts
23 needed to make refunds under ORS 657A.706 (4) and to cover expenses of the Child Care *[Division]*
24 **Office** in administering ORS 657A.700 to 657A.718.

25 “(2) Distributions shall be made to community agencies selected under ORS 657A.706 in the
26 proportion that the Child Care *[Division]* **Office** determines best promotes the provision of child care
27 in this state.

28 “(3) Moneys distributed to selected community agencies shall be disbursed to child care provid-
29 ers, consistent with rules adopted by the *[Child Care Division]* **Early Learning Council** relating to
30 the disbursement of moneys by selected community agencies. The *[Child Care Division]* **council** shall
31 consider the factors described in ORS 657A.715 (2)(h) when adopting rules under this subsection.”.

32 In line 34, delete “Child Care” and delete “Office” and insert “Early Learning Council”.

33 On page 36, delete lines 5 through 26 and insert:

34 “**SECTION 72.** ORS 657A.718 is amended to read:

35 “657A.718. (1) Each selected community agency shall select participating child care providers
36 that meet the following requirements:

37 “(a) If a home-based business, the provider must enter into an agreement with the community
38 agency to continue to provide child care services for at least an additional two years.

39 “(b) If a home-based business, the provider must serve at least two families that have incomes
40 that are 85 percent or less of the median income for the region. If a center, at least 25 percent of
41 the families the provider serves must have incomes that are 85 percent or less of the median income
42 for the region.

43 “(c) The provider must accept children for whom child care is paid for through a Department
44 of Human Services subsidy.

45 “(d) The provider and the employees of the provider must provide high quality child care.

1 “(e) The provider, if the provider is an individual, and the employees of the provider must com-
2 ply with [*Child Care Division*] **Early Learning Council** rules and requirements for registration or
3 certification.

4 “(f) The provider must maintain adequate liability insurance, financial records and parent poli-
5 cies and contracts, and permit the selected community agency to conduct visits.

6 “(g) For care provided to children of families whose income does not exceed the level established
7 by the selected community agency under ORS 657A.715 (2)(g), the provider must agree to limit the
8 total child care fees charged to a family to a percentage established by the [*Child Care Division*]
9 **Early Learning Council** by rule.

10 “(2) In selecting participating child care providers, selected community agencies must give
11 preference to providers that provide child care to low and moderate income families.”.

12 In line 36, delete “office” and insert “Early Learning Council”.

13 In line 37, delete “office” and insert “Early Learning Council”.

14 In line 39, delete “office” and insert “council”.

15 On page 38, line 36, delete “Child Care” and delete the second “Office” and insert “Early
16 Learning Council”.

17 On page 51, line 45, delete “87” and insert “88”.

18 On page 52, delete lines 2 through 4 and insert:

20 “RELIEF NURSERIES

21
22 “**SECTION 90.** Section 104, chapter 37, Oregon Laws 2012, is amended to read:

23 “**Sec. 104. (1)** The amendments to statutes by sections [*83 to 102 of this 2012 Act*] **83 to 91 and**
24 **93 to 102, chapter 37, Oregon Laws 2012**, and the repeal of statutes by section 103 [*of this 2012*
25 *Act*], **chapter 37, Oregon Laws 2012**, become operative on January 1, 2014.

26 “**(2)** The amendments to ORS 417.788 by section 92, chapter 37, Oregon Laws 2012, become
27 **operative on the effective date of this 2013 Act.**

28 “MISCELLANEOUS PROVISIONS

29
30
31 “**SECTION 91.** Sections 1a to 1g, 20, 36 to 37f and 39 of this 2013 Act and the amendments
32 to ORS 131A.360, 131A.365, 307.145, 307.490, 307.500, 315.204, 315.208, 315.213, 326.021, 329.075,
33 329.156, 329.165, 329.170, 329.175, 329.183, 329.185, 329.190, 329.195, 329.200, 343.499, 343.507,
34 417.787, 417.788, 417.790, 417.793, 418.975, 419B.005, 419B.020, 419B.035, 458.525, 609.652,
35 646A.504, 657A.010, 657A.020, 657A.030, 657A.180, 657A.190, 657A.250, 657A.252, 657A.255,
36 657A.257, 657A.260, 657A.263, 657A.270, 657A.275, 657A.280, 657A.290, 657A.300, 657A.310,
37 657A.330, 657A.350, 657A.360, 657A.370, 657A.390, 657A.400, 657A.410, 657A.420, 657A.450,
38 657A.490, 657A.700, 657A.703, 657A.706, 657A.709, 657A.712, 657A.715, 657A.718 and 657A.992 and
39 section 10, chapter 519, Oregon Laws 2011, and sections 10, 68b and 130, chapter 37, Oregon
40 Laws 2012, by sections 2 to 12, 19, 21 to 35, 38 and 40 to 89 of this 2013 Act become operative
41 on July 1, 2013.

42 “**SECTION 92.** The unit captions used in this 2013 Act are provided only for the conven-
43 ience of the reader and do not become part of the statutory law of this state or express any
44 legislative intent in the enactment of this 2013 Act.

45 “**SECTION 93.** This 2013 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
2 **on its passage.”**

3
