

ANALYSIS

Item 7: Department of Education Department of Early Learning and Care Updates

Analyst: Julie Neburka

Request: Acknowledge receipt of a report required by HB 3073 (2021) on the creation of the Department of Early Learning and Care.

Analysis: Section 85(3) of HB 3073 (2021) requires the Early Learning Division of the Oregon Department of Education (ODE) to report to the Legislature no later than January 15, 2022 on progress being made on several aspects of creating the new Department of Early Learning and Care (DELIC). Specifically, the report is required to discuss:

- Progress on the transfer of background checks inspections for the Employment Related Day Care (ERDC) program
- Progress on the transfer of the ERDC program from the Department of Human Services (DHS)
- Recommendations for strengthening the alignment of early childhood special education and early intervention services into the statewide early learning system
- Progress on the adoption of rules related to school-aged child care
- Fiscal impacts of the plan
- Budgetary impacts or recommendations for legislation related to the plan

This second of the three reports required by HB 3073 benefits from an additional three months of planning work undertaken by the Early Learning Division, DHS, ODE, and other business partners. The draft report reviewed for this analysis is laid out according to the subsections found in legislation, and details the progress made toward aligning early childhood special education and early intervention services into the statewide early learning system and toward adopting administrative rules related to school-aged child care. As the most significant financial risks are related to the transfer of the ERDC program and the creation of the new agency itself, this analysis will focus on those two efforts.

Transfer of the ERDC Program

In November, the Legislative Fiscal Office posed a series of questions about the planned transfer of the ERDC program to the new DELIC¹, focused on whether or not the agencies involved had adequately addressed the funding, staffing, operational and technology requirements of the program's transfer. The current report details progress made in these areas, including agreements made to migrate the ERDC Direct Pay Unit positions and processes, Child Care Policy positions and processes, Head Start contracts, Teen Parent Program and contracts, and Inclusive Partners positions and processes to DELIC, with DHS continuing to support ERDC applications and eligibility determinations through the ONE Eligibility System used to determine eligibility for other safety net programs. Interagency agreements with DHS will be required for other identified ERDC support functions. Having reached agreement on the DHS programs and employees that will transfer to DELIC, implementation plans are currently underway for these program elements, estimated to be complete by the July 1, 2023 transfer deadline.

¹ See "Item 8: Department of Early Learning and Care and ERDC Transfer" posted to OLIS for the [November 15, 2021 meeting of the Education Subcommittee](#) of the Joint Interim Committee on Ways and Means.

Costs related to the ERDC transfer are not complete; those identified to date include the cost of six child care policy and Direct Pay Unit positions that are currently funded by DHS, and approximately \$3.7 million associated with a portion of the interagency agreements noted above.

Establishment of the new Department of Early Learning and Care

Per HB 3073, the Department of Early Learning and Care (DELIC) will be responsible for developing, implementing, and operating a statewide early learning and child care system beginning on January 1, 2023. In addition to planning for future early childhood policies, programs, and services, it will continue operating existing programs run by ODE's Early Learning Division - including Oregon Prekindergarten, Preschool Promise, and the Office of Childcare - and will take on operation of the ERDC program beginning with the 2023-25 biennium.

The draft report outlines the work completed to date in each of three phases for establishing the new agency: analyzing the current state, designing the future state operating model and organization structure, and building DELIC. The report describes the current state analysis as being complete, as is the high-level organizational design. Organizational design work to date lays out an operational framework of four agency divisions - Operations, Programs, the Office of Childcare, and a leadership division under a Chief of Staff - with centralized business services to support agency operations. The DELIC transition team has identified 40 discrete planning and operational projects that must be completed prior to or just after the new agency's go-live date, many of which are mapped out and resourced but some of which require further work.

American Rescue Plan Act one-time grants

In addition to the report, the Department provided an update on its use of supplemental Child Care Development Fund (CCDF) grant awards made through the American Rescue Plan Act, noting that \$21 million of its discretionary grant award has been planned for DELIC infrastructure and grant administration. Little additional detail was provided about the use of those funds other than identifying DELIC information technology projects and consultant fees as being the primary intended uses for those dollars, which must be obligated by September 30, 2023 and fully spent by September 30, 2024.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means acknowledge receipt of the report.

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Oregon Department of Education
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Request: Report on the status of the creation of the Department of Early Learning and Care, the transfer of child care assistance programs from the Oregon Department of Human Services to the Early Learning Division, as well as an update on federal American Rescue Plan Act funds.

Recommendation: Acknowledge receipt of the report.

Discussion: Section 85 (3) of House Bill 3073 requires the Oregon Department of Education (ODE) Early Learning Division (ELD) to report to the appropriate interim committee of the Legislature on the progress of the plans required to be developed and implemented for the following areas by January 15, 2022:

- (a) Progress on the transfer of background checks inspections for the Employment Related Day Care subsidy program to the Early Learning Division, including any recommendations for legislation or other authority necessary for the collection of subsidy overpayments made under the program.
- (b) Progress on the transfer of child care assistance programs, including the Employment Related Day Care subsidy program to the Early Learning Division and any recommended changes related to the transfer.
- (c) Recommendations to strengthen the alignment of the early childhood special education and early intervention services within the statewide early learning system, including any recommended changes to governance, policy making or other oversight of the system.
- (d) Progress on the adoption of rules related to school-age child care.
- (e) Any fiscal impacts of the plan and any conflicts of the plan with federal statute that must be resolved.
- (f) Any budgetary impacts or recommendations for legislation, related to the plan.

This is the second required report from ELD on these topics. The first Legislatively directed report submitted by ELD earlier in 2021-23, included an in-depth analysis of the Employment Related Day Care (ERDC) program, which is currently administered by the Oregon Department of Human Services (ODHS). The first report also included a review of best practices and a state scan of Early Intervention/Early Childhood Special Education (EI/ECSE) in 12 other states. This work was performed by Alvarez and Marsal (A&M) and Education Northwest, respectively. ELD continues to work with A&M, who also served as the lead author on the second report on the planning for the creation of the Department of Early Learning and Care (DELIC).

The first phase of reporting was characterized as a current state analysis and referred to as the Design phase. Although the report was not finalized in time for this analysis, the second report is expected to be available prior to January interim Legislative Days and should be included in Joint Interim Committee on Ways and Means meeting materials and available on ELD's website. The second report is intended to convey the planning for the transfer of all child care programs (including ERDC), the guiding principles of the new agency's mission, values and design, and DELIC's future state operating model and organizational structure along with the financial request(s) and projected budgetary impacts. The initial letter provided by ELD, prior to the

release of the report, provided some of the recommendations that can be expected in the report, including the transfer of ERDC background check function from ODHS to ELD, as well as the transfer of ERDC, Inclusive Partners, Teen Parent Program, and Head Start contracts, all by July 1, 2023.

This report is being delivered in conjunction with a request to release a special purpose appropriation, which was \$5.1 million General Fund set aside until ELD could return with a more detailed plan for creation of the new agency. The findings of this report should support that request and help inform potential legislative changes being considered in the February 2022 Legislative Session.



Oregon

Kate Brown, Governor

Early Learning Division



December 6, 2021

Senator Elizabeth Steiner Hayward, Co-Chair
Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

Nature of the Request

The Department of Education, Early Learning Division (ELD) respectfully requests to present the second legislative report on the creation of the Department of Early Learning and Care (DELIC) in accordance with HB 3073 (2021), and to provide an update on the federal American Rescue Plan Act (ARPA) Discretionary and ARPA Child Care Stabilization grants.

Agency Action

HB 3073: Department of Early Learning and Care

HB 3073, Section 85, requires that the Early Learning Division, in collaboration with the Oregon Department of Human Services and Oregon Department of Education “to address the progress on the plans required to be developed and implemented” in this legislation, “including:

- (a) Progress on the transfer of background checks inspections for the Employment Related Day Care subsidy program to the Early Learning Division, including any recommendations for legislation or other authority necessary for the collection of subsidy overpayments made under the program.
- (b) Progress on the transfer of child care assistance programs, including the Employment Related Day Care subsidy program, to the Early Learning Division, and any recommended changes related to the transfer.
- (c) Recommendations to strengthen the alignment of the early childhood special education and early intervention services within the statewide early learning system, including any recommended changes to governance, policymaking or other oversight of the system.
- (d) Progress on the adoption of rules related to school-age child care.
- (e) Any fiscal impacts of the plan and any conflicts of the plan with federal statute that must be resolved.
- (f) Any budgetary impacts or recommendations for legislation related to the plan.”

The ELD contracted with Alvarez & Marsal (A&M) to support the planning process for the new Department of Early Learning and Care agency design. The final agency report will include the following recommendations:

ERDC Background Checks

ODHS shall transfer to the Early Learning Division’s Central Background Registry by [DATE]. This authority is to be incorporated in the early childhood omnibus bill that the House Early Childhood Committee will introduce during the February 2022 session and ELD will provide a fiscal impact of the bill as appropriate.

Child Care Assistance Programs

ODHS shall transfer the following programs to DELC by July 1, 2023.

- Employment Related Day Care
- Inclusive Partners*
- Teen Parent Program
- Head Start contracts

The Inclusive Partners program may transition sooner to support the launch of the Early Childhood Suspension & Expulsion Prevention Program established by HB 2166 (2021). At this time, the Bureau of Labor & Industries (BOLI) Apprenticeship child care program will remain with ODHS pending future discussions with BOLI.

Early Intervention/Early Childhood Special Education (EI/ECSE)

ELD and ODE received a report from Education Northwest (EDNW) including high level recommendations to strengthen the EI/ECSE programs. ELD and ODE will work with the Build Initiative to develop further recommendations relating to governance and program administration for the September 2022 legislative report.

School-Age Rules

ELD will be convening a Rulemaking Advisory Committee (RAC) to review school-age rules for licensed child care centers for the Early Learning Council to adopt by June 30, 2022.

American Rescue Plan Act One Time Grants: Plan Update

ELD received two grants from the ARPA Act of 2021. The first is the ARPA CCDF Discretionary grant. Oregon received \$155.6 million. These funds are meant to supplement, not supplant other federal, state or local public funds expended to support child care. ELD's High level plan for ARPA Discretionary is as follows:

ARPA CCDF Discretionary Grant (in millions)	
Description	Amount
ERDC Co-pay Restructure & Increased Caseload	\$79.3
ERDC Provider Rates	\$18.3
SEIU and AFSCME Training, Retirement and Healthiest U Funds	\$10.9
Grant Administration and DELC Infrastructure	\$21.0
Professional Development Child Care Providers	\$26.1
Total ARPA Discretionary Grant	\$155.6

For this report, ELD is providing additional details on the \$21 million set aside of APRA Discretionary funds for grant administration and DECL infrastructure. The majority of the funds are set aside for infrastructure information technology needs, including a new provider payment system. Additional funds have been committed for the executed contract with A&M and remaining funds will be utilized for potential future modifications to the Oregon Department of Human Services ONE Eligibility system and future operating costs of DELC (personal services and services and supplies for administering the grant and potential contract/program management). The exact amount of funds for operational costs will be determined once the procurement process has provided estimated costs for a new information technology investments.

The second award received is the ARPA Child Care Stabilization CCDF Discretionary grant. Oregon received \$248.9 million. As a reminder, these funds require at least 90% be distributed to qualified child care providers to support the stability of the child care sector. Child care providers may spend the funds on a variety of operating expenses, including wages and benefits, rent, utilities and other goods and services necessary to maintain child care services. No more than 10% of these funds may be used by the state for administration, child care supply-building and technical assistance and support for providers applying for the grants. The federal legislation required states to report to the Department of Health and Human Services by December 11, 2021 if unable to obligate at least 50% of this grant. With ELD successfully opening the grant application on September 23, 2021 and the number of applications processed and approved as of December 2, 2021, Oregon will be successful in meeting this requirement set by the federal legislation. The first round of applications will close December 31, 2021.

As of December 2, 2021, ELD has received 3,085 applications. Of these, 2,860 have been approved. The applications received have been from a variety of child care settings, including license-exempt providers receiving subsidy, licensed family and child care centers. ELD will provide two payments, the first upon execution of the grant agreement and the second payment made in the fourth month of the six month grant period.

Of the approved applications, first payments to 2,326 providers have been distributed, which equates to just over \$66 million in grant dollars to Oregon childcare providers. The approved applications to-date will result in over \$155 million dollars to Oregon child care providers. Half the funds will be issued upon executed agreements and the second payment made in the fourth month of the six month grant period.

Action Requested


The Department of Education, Early Learning Division, requests acknowledgement of the legislative report required by HB 3073 and the update on the ARPA federal stimulus funds.

Legislation Affected

None

Thank you for considering approval of this request.

Sincerely,



Alyssa Chatterjee
Early Learning System Director



Colt Gill
Agency Director