

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 3073 D**

81st Oregon Legislative Assembly – 2021 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

Prepared by: Tim Walker  
Reviewed by: Gregory Jolivet, Doug Wilson  
Date: 06/26/2021

**Measure Description:**

Changes name of Early Learning Division to Department of Early Learning and Care.

**Government Unit(s) Affected:**

Department of Education (ODE), Department of Human Services (DHS)

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

The fiscal information below is based on information sent to the Legislative Fiscal Office (LFO). Significant information still must be gathered and reviewed before final decisions are made in the February 2022 Session including: (1) the impact on the Oregon Department of Education (ODE) from the loss of indirect revenue used for core staff and administrative infrastructure for ongoing agency operations, (2) the administrative and support needs of standing up a new agency as well as its ongoing staffing needs, (3) the impact of any federally approved indirect rate for the fund mix of the new state agency, (4) the impact of State Government Service charges and other state government internal charges on both agencies, and (5) numerous other items including information system/payment system needs of the new agency and the costs and staffing impact of transferring the Employment Related Day Care program (ERDC).

**Summary of Expenditure Impact:**

**Analysis:** The bill creates a new state agency, the Department of Early Learning and Care (DELIC) and transfers the Early Learning Division (ELD) from the Department of Education (ODE) to the new agency. The bill establishes the new agency effective January 1, 2023. The Early Learning Systems Director in ELD will act as the new agency’s Director, and all staff primarily engaged in ELD business are moved into the new agency as of the operative date. All records, contracts, legal agreements in place with the ELD at the time of the move become the responsibility of DELIC.

In addition, the Employment Related Day Care (ERDC) program is moved from the Department of Human Services, including all records, contracts, and outstanding legal agreements, into the new agency effective on July 1, 2023.

Department of Early Learning and Care and Oregon Department of Education

Preliminary estimates are that DELIC will require 235 positions to administer its duties and responsibilities as outlined in the bill once the new agency is established. This includes 187 positions transferred from ODE and 48 new positions. All of the current staff in ELD will be transferred to DELIC, including the Office of Child Care, program and grant management, executive leadership and administration, and all programs under ELD’s current control. Administrative and support functions including accounting, budget, procurement, IT, and human resource functions will be transferred or newly established within the new agency. The programs transferred to DELIC include; Oregon Prekindergarten, Preschool Promise, Relief Nurseries, Healthy Families, Early Learning Hubs, Childcare Equity Fund, Early Head Start, and other state and federal early learning and childcare programs. The fiscal impact does not include State Government Service Charges for DELIC and these charges will not be

known until the Department of Administrative Services (DAS) recalculates these estimates. It should also be noted that certain functions for administration and support for ELD are currently shared with other programs in ODE. To continue the support necessary for K-12 programs, some of these support functions will need to be newly established in the new agency. Current indirect revenue from the Child Care Development Fund provides funding for some of these shared functions and General Fund backfill may be required to replace these lost indirect revenues.

The actual cost of establishing and operating this new agency has many unknowns at this time as outlined above. LFO and current ODE staff have worked out an interim plan based on the new effective date. ODE will begin to hire positions early in the 2021-23 biennium to assess the needs of the agency in terms of staffing, systems development and other factors and what that cost will be. They will also start to take the steps in establishing a new agency. The cost of these 14 positions (12.92 FTE) is \$3,498,673 General Fund. Then during the February 2022 legislative session, the necessary adjustments in appropriations and expenditure limitation will be made to reflect the updated costs for six months of operations for the new agency in 2021-23. A special purpose appropriation of \$5,130,265 General Fund is proposed to cover the costs over and above the existing resources in ODE's budget that will be transferred to DELC and the 24-month costs of the 14 new positions.

#### Department of Human Services

The bill makes several changes to the Employment-Related Day Care program (ERDC). Most notably, it (1) establishes a cap on the program's sliding scale copayment, whereby copayments may not exceed 7% of household income; and (2) provides that eligibility may not be based on the citizenship status or legal status of a child or a child's family.

The policy changes proposed by the Early Learning Division (ELD) for the ERDC program are estimated to cost approximately \$95.0 million in 2021-23. The single largest driver of this fiscal is ELD's proposed copayment structure which tops out at around 3% of household income. Effective October 1, 2021, this new copayment structure accounts for about \$51.0 million of the estimated costs. ELD also proposes to raise the program's caseload cap, allowing for an additional 1,000 enrollees, which is estimated to cost about \$22.3 million in the 2021-23 biennium. Proposed provider rate increases have an estimated cost of \$13.9 million. Finally, the proposed three-month extension (from July 1, 2021 to September 30, 2021) of the current zero-copayment policy is estimated to cost \$7.6 million in 2021-23. Coverage of non-citizen children becomes effective 6/30/2021, as such there is no 2021-23 cost for this policy change; however, this is projected to cost \$10.9 million in 2023-25.

All of the 2021-23 costs and most of the 2023-25 costs of the measure would be covered by a mix of mostly one-time federal funds from the Early Learning Division. In 2023-25, there would be estimated General Fund costs of \$10.9 million for non-citizen children. Beyond 2023-25, there could be significant pressure on the General Fund to backfill for the one-time federal funds as program participants may otherwise face a potentially significant drop-off in the program's childcare subsidy (increase in copayment).

The measure resolves conflict with House Bill 2059 and modifies provisions relating to quality improvement system and incentives to both families and providers that participate in that system. The amendment is not anticipated to have a substantive fiscal impact on the measure, but the Legislative Fiscal Office notes that there was not sufficient time to get responses from the affected agencies.