

B-Engrossed House Bill 2683

Ordered by the House June 9
Including House Amendments dated April 25 and June 9

Sponsored by Representative KROPF; Representative REYNOLDS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs Early Learning Council to adopt rules to establish eligibility for certain children to participate in Employment Related Day Care subsidy program.

A BILL FOR AN ACT

1
2 Relating to child eligibility to participate in Employment Related Day Care subsidy program; creat-
3 ing new provisions; and amending ORS 329A.500.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 329A.500 is amended to read:

6 329A.500. (1) As used in this section, "family" means any individual who is responsible for the
7 care, control and supervision of a child.

8 (2) The Department of Human Services and the Early Learning Council shall adopt rules for the
9 operation of the Employment Related Day Care subsidy program administered by the department.

10 (3) The rules adopted under this section must support equitable access to a supply of diverse
11 child care providers that meet the needs of families, as those needs are defined by the department
12 by rule, including:

- 13 (a) Cultural diversity;
14 (b) Linguistic diversity;
15 (c) Racial and ethnic diversity; and
16 (d) Diversity of provider types.

17 *[(4) The rules adopted under this section must provide that:]*

18 *[(a) A child's eligibility to participate in the Employment Related Day Care subsidy program must
19 be based on:]*

20 *[(A) The household income of a child's family; and]*

21 *[(B) Any other criteria established by the department.]*

22 **(4) The council shall adopt rules establishing that:**

23 **(a) Each of the following subparagraphs constitutes an independent basis of eligibility for
24 a child to participate in the Employment Related Day Care subsidy program:**

25 **(A) The household income of a child's family;**

26 **(B) The child's family's employment, search for employment or enrollment in an educa-
27 tion or training program;**

28 **(C) The child's or child's family's use of, or risk of needing to use, protective services,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **including, but not limited to, child welfare services, child abuse prevention services, family**
2 **reunification services, foster care services or subsidized guardianship services;**

3 **(D) The child’s or child’s family’s use of, or risk of needing to use, homelessness services,**
4 **teen parent services or domestic violence services; or**

5 **(E) Any other criteria established by the council.**

6 (b) A child must be able to receive care that:

7 (A) Meets the child’s developmental, disability and neurodiversity needs; and

8 (B) Enables the child’s family to complete activities that relate to family well-being, which may
9 include the family’s work hours, education hours, commute time, study time and other activities that
10 support family well-being.

11 (c) Payment to child care providers must be based on enrollment instead of attendance.

12 (d) A child’s family may qualify for an incentive if the family voluntarily chooses a child care
13 provider that participates in the quality recognition and improvement system established under ORS
14 329A.261. A fair representation of the recipients who qualify for incentives must be families with
15 children who are from underserved racial, ethnic or minority populations. In addition, child care
16 providers that participate in the quality recognition and improvement system may receive financial
17 incentives under the subsidy programs in accordance with criteria established by rule.

18 (5) Taking into account the availability of funds, the rules adopted under this section must es-
19 tablish a sliding scale for copayment, with the requirement that a copayment may not exceed seven
20 percent of the household income of the child’s family.

21 (6) In developing rules under this section, the department shall consider policies for increasing
22 the stability and continuity of a child’s access to a family’s preferred child care provider.

23 (7) Rules adopted by the department under this section establish minimum requirements per-
24 taining to the Employment Related Day Care subsidy program and may not be construed to preempt,
25 limit or otherwise diminish the applicability of any policy, standard or collective bargaining agree-
26 ment that provides for an increased subsidy or a child care provider reimbursement amount under
27 state or federal law.

28 (8)(a) The department shall work to meet federal recommendations for income eligibility and
29 market access in regard to the Employment Related Day Care subsidy program administered by the
30 department.

31 (b) Notwithstanding any provision of this section or any rule adopted by the department pursu-
32 ant to this section, the laws and regulations applicable to any federal funds shall govern when any
33 aspect of child care is funded by federal funds.

34 **SECTION 2.** ORS 329A.500, as amended by section 73, chapter 631, Oregon Laws 2021, and
35 section 25, chapter 27, Oregon Laws 2022, is amended to read:

36 329A.500. (1) As used in this section, “family” means any individual who is responsible for the
37 care, control and supervision of a child.

38 (2) The Early Learning Council shall adopt rules for the operation of the Employment Related
39 Day Care subsidy program and for other subsidy programs administered by the Department of Early
40 Learning and Care.

41 (3) The rules adopted under this section must support equitable access to a supply of diverse
42 subsidized care facilities that meet the needs of families, as those needs are defined by the council
43 by rule, including:

44 (a) Cultural diversity;

45 (b) Linguistic diversity;

- 1 (c) Racial and ethnic diversity; and
- 2 (d) Diversity of subsidized care facility types.

3 [(4) *The rules adopted under this section must provide that:*]

4 [(a) *A child's eligibility to participate in the Employment Related Day Care subsidy program must*

5 *be based on:*]

6 [(A) *The household income of a child's family; and*]

7 [(B) *Any other criteria established by the council.*]

8 **(4) The council shall adopt rules establishing that:**

9 **(a) Each of the following subparagraphs constitutes an independent basis of eligibility for**

10 **a child to participate in the Employment Related Day Care subsidy program:**

11 **(A) The household income of a child's family;**

12 **(B) The child's family's employment, search for employment or enrollment in an educa-**

13 **tion or training program;**

14 **(C) The child's or child's family's use of, or risk of needing to use, protective services,**

15 **including, but not limited to, child welfare services, child abuse prevention services, family**

16 **reunification services, foster care services or subsidized guardianship services;**

17 **(D) The child's or child's family's use of, or risk of needing to use, homelessness services,**

18 **teen parent services or domestic violence services; or**

19 **(E) Any other criteria established by the council.**

20 (b) A child must be able to receive care that:

21 (A) Meets the child's developmental, disability and neurodiversity needs; and

22 (B) Enables the child's family to complete activities that relate to family well-being, which may

23 include the family's work hours, education hours, commute time, study time and other activities that

24 support family well-being.

25 (c) Payment to subsidized care facilities must be based on enrollment instead of attendance.

26 (d) A child's family may qualify for an incentive if the family voluntarily chooses a subsidized

27 care facility that participates in the quality recognition and improvement system established under

28 ORS 329A.261. A fair representation of the recipients who qualify for incentives must be families

29 with children who are from underserved racial, ethnic or minority populations. In addition, subsi-

30 dized care facilities that participate in the quality recognition and improvement system may receive

31 financial incentives under the subsidy programs in accordance with criteria established by rule.

32 (e) A child care facility is not eligible to be a subsidized care facility and to receive a re-

33 imbursement under the subsidy program unless each subject individual described in ORS 329A.030

34 (10)(d) who operates, resides in or may have unsupervised contact with children at the subsidized

35 care facility that provides or will provide subsidized care to the person's child is enrolled in the

36 Central Background Registry under ORS 329A.030.

37 (f) A subsidized care facility may be eligible to receive a higher rate of reimbursement or other

38 financial incentives for:

39 (A) Participating in quality improvement measures;

40 (B) Providing culturally or linguistically specific or appropriate care;

41 (C) Providing evening, overnight or weekend care;

42 (D) Providing care to children with a diagnosed disability;

43 (E) Providing infant or toddler care;

44 (F) Providing care to a population that has been identified as historically having an inadequate

45 child care facility supply; or

1 (G) Providing any other specialized care that justifies a higher rate of reimbursement.

2 (5) Taking into account the availability of funds, the rules adopted under this section:

3 (a) Must establish a sliding scale for copayment, with the requirement that a copayment may
4 not exceed seven percent of the household income of the child's family.

5 (b) Must provide that eligibility to participate in the Employment Related Day Care subsidy
6 program:

7 (A) May not be based on the citizenship or legal status of a child or a child's family; and

8 (B) Shall, for a child who met the initial eligibility requirements prescribed under subsection (4)
9 of this section, continue for a minimum of 12 months from the date of initial eligibility unless the
10 child's family leaves this state or requests a termination of benefits or for any other reason identi-
11 fied by the council. Rules adopted under this subparagraph shall give priority to families receiving
12 temporary assistance under the temporary assistance for needy families program described in ORS
13 412.006.

14 (c) May provide that a determination of eligibility to participate in the Employment Related Day
15 Care subsidy program consider the availability of family to attend to the child, regardless of the
16 family's physical presence.

17 (6) In developing rules under this section, the council shall consider policies for increasing the
18 stability and continuity of a child's access to a family's preferred child care facility.

19 (7) Rules adopted by the council under this section establish minimum requirements pertaining
20 to the Employment Related Day Care subsidy program and may not be construed to preempt, limit
21 or otherwise diminish the applicability of any policy, standard or collective bargaining agreement
22 that provides for an increased subsidy or a subsidized care facility reimbursement amount under
23 state or federal law.

24 (8)(a) The council shall work to meet federal recommendations for income eligibility and market
25 access in regard to the Employment Related Day Care subsidy program administered by the council.

26 (b) Notwithstanding any provision of this section or any rule adopted by the council pursuant
27 to this section, the laws and regulations applicable to any federal funds shall govern when any as-
28 pect of child care is funded by federal funds.

29 **SECTION 3. (1) The Early Learning Council shall develop and implement rules providing**
30 **criteria for eligibility based on ORS 329A.500 (4)(a)(C) no later than July 1, 2025.**

31 **(2) The council shall develop and implement rules providing criteria for eligibility based**
32 **on ORS 329A.500 (4)(a)(D) no later than July 1, 2027.**

33 **SECTION 4. Notwithstanding any other provision of law, the General Fund appropriation**
34 **made to the Department of Human Services by section 1 (8), chapter _____, Oregon Laws**
35 **2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, for the Oregon El-**
36 **igibility Partnership, is increased by \$313,407, for information technology changes required**
37 **to carry out the provisions of this 2023 Act.**

38 **SECTION 5. Notwithstanding any other law limiting expenditures, the limitation on**
39 **expenditures established by section 2 (9), chapter _____, Oregon Laws 2023 (Enrolled House**
40 **Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of ex-**
41 **penses from fees, moneys or other revenues, including Miscellaneous Receipts and Medicare**
42 **receipts and including federal funds for indirect cost recovery, Social Security Supplemental**
43 **Security Income recoveries and the Child Care and Development Fund, but excluding lottery**
44 **funds and federal funds not described in section 2, chapter _____, Oregon Laws 2023 (En-**
45 **rolled House Bill 5026), collected or received by the Department of Human Services, for the**

1 Oregon Eligibility Partnership, is increased by \$1,830,240, for information technology system
2 changes required to carry out the provisions of this 2023 Act.

3 **SECTION 6.** Notwithstanding any other law limiting expenditures, the limitation on
4 expenditures established by section 3 (8), chapter _____, Oregon Laws 2023 (Enrolled House
5 Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of ex-
6 penses from federal funds, excluding federal funds described in section 2, chapter _____,
7 Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of
8 Human Services, for the Oregon Eligibility Partnership, is increased by \$313,406, for infor-
9 mation technology system changes required to carry out the provisions of this 2023 Act.

10 **SECTION 7.** In addition to and not in lieu of any other appropriation, there is appropri-
11 ated to the Oregon Health Authority, for the biennium beginning July 1, 2023, out of the
12 General Fund, the amount of \$7,843, to support position costs related to system updates re-
13 quired to carry out the provisions of this 2023 Act.

14 **SECTION 8.** Notwithstanding any other law limiting expenditures, the amount of \$626,811
15 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of
16 expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but ex-
17 cluding lottery funds and federal funds, collected or received by the Oregon Health Author-
18 ity, for the Office of Information Services, to support position costs related to system
19 updates required to carry of the provisions of this 2023 Act.

20 **SECTION 9.** Notwithstanding any other law limiting expenditures, the amount of \$7,843
21 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of
22 expenses from federal funds collected or received by Oregon Health Authority to support
23 position costs related to system updates required to carry out the provisions of this 2023 Act.

24 **SECTION 10.** Notwithstanding any other provision of law, the General Fund appropriation
25 made to the Department of Early Learning and Care by section 1 (1), chapter _____,
26 Oregon Laws 2023 (Enrolled House Bill 5013), for the biennium beginning July 1, 2023, for
27 operations, is increased by \$1,830,240, for information technology system changes required
28 to carry out the provisions of this 2023 Act.

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