

## SENATE AMENDMENTS TO SENATE BILL 1535

By COMMITTEE ON EARLY CHILDHOOD AND BEHAVIORAL HEALTH

February 16

1 In line 2 of the printed bill, after “care” insert “; creating new provisions; amending ORS  
2 329A.500; and prescribing an effective date”.

3 Delete lines 4 through 8 and insert:

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

5 “329A.500. (1) As used in this section, ‘family’ means any individual who is responsible for the  
6 care, control and supervision of a child.

7 “(2) The Early Learning Council shall adopt rules for the operation of the Employment Related  
8 Day Care subsidy program and for other subsidy programs administered by the Department of Early  
9 Learning and Care.

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

13 “(a) Cultural diversity;

14 “(b) Linguistic diversity;

15 “(c) Racial and ethnic diversity; and

16 “(d) Diversity of subsidized care facility types.

17 “(4) The council shall adopt rules establishing that:

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

20 “(A) The household income of a child’s family;

21 “(B) The child’s family’s employment, search for employment or enrollment in an education or  
22 training program;

23 “(C) The child’s or child’s family’s use of, or risk of needing to use, protective services, includ-  
24 ing, but not limited to, child welfare services, child abuse prevention services, family reunification  
25 services, foster care services or subsidized guardianship services;

26 “(D) The child’s or child’s family’s use of, or risk of needing to use, homelessness services, teen  
27 parent services or domestic violence services; or

28 “(E) Any other criteria established by the council.

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

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

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

34 “(c) Payment to subsidized care facilities must be:

35 “(A) Based on enrollment instead of attendance.

1 “(B) Made by the department each month by a date specified by the Early Learning Council by  
2 rule or, if paid on a date later than the date specified by rule, paid in an amount that includes an  
3 additional nine percent of the amount due unless the additional amount is not required to be paid  
4 under exceptional circumstances, as identified by rule.

5 “(d) A child’s family may qualify for an incentive if the family voluntarily chooses a subsidized  
6 care facility that participates in the quality recognition and improvement system established under  
7 ORS 329A.261. A fair representation of the recipients who qualify for incentives must be families  
8 with children who are from underserved racial, ethnic or minority populations. In addition, subsi-  
9 dized care facilities that participate in the quality recognition and improvement system may receive  
10 financial incentives under the subsidy programs in accordance with criteria established by rule.

11 “(e) A child care facility is not eligible to be a subsidized care facility and to receive a re-  
12 imbursement under the subsidy program unless each subject individual described in ORS 329A.030  
13 (11)(d) who operates, resides in or may have unsupervised contact with children at the subsidized  
14 care facility that provides or will provide subsidized care to the person’s child is enrolled in the  
15 Central Background Registry under ORS 329A.030.

16 “(f) A subsidized care facility may be eligible to receive a higher rate of reimbursement or other  
17 financial incentives for:

18 “(A) Participating in quality improvement measures;

19 “(B) Providing culturally or linguistically specific or appropriate care;

20 “(C) Providing evening, overnight or weekend care;

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

22 “(E) Providing infant or toddler care;

23 “(F) Providing care to a population that has been identified as historically having an inadequate  
24 child care facility supply; or

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

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

27 “(a) Must establish a sliding scale for copayment, with the requirement that a copayment may  
28 not exceed seven percent of the household income of the child’s family.

29 “(b) Must provide that eligibility to participate in the Employment Related Day Care subsidy  
30 program:

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

32 “(B) Shall, for a child who met the initial eligibility requirements prescribed under subsection  
33 (4) of this section, continue for a minimum of 12 months from the date of initial eligibility unless the  
34 child’s family leaves this state or requests a termination of benefits or for any other reason identi-  
35 fied by the council. Rules adopted under this subparagraph [*shall*] **may** give priority to families re-  
36 ceiving temporary assistance under the temporary assistance for needy families program described  
37 in ORS 412.006.

38 “(c) May provide that a determination of eligibility to participate in the Employment Related  
39 Day Care subsidy program consider the availability of family to attend to the child, regardless of  
40 the family’s physical presence.

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

43 “(7) Rules adopted by the council under this section establish minimum requirements pertaining  
44 to the Employment Related Day Care subsidy program and may not be construed to preempt, limit  
45 or otherwise diminish the applicability of any policy, standard or collective bargaining agreement

1 that provides for an increased subsidy or a subsidized care facility reimbursement amount under  
2 state or federal law.

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

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

8 “**SECTION 2. (1) The Department of Early Learning and Care shall convene a work group**  
9 **to study the cost and availability of liability insurance and other liability issues for child care**  
10 **providers certified under ORS 329A.280, registered under ORS 329A.330 or recorded under**  
11 **ORS 329A.255. The work group may also study impacts to programs or entities that would**  
12 **typically be exempt from Department of Early Learning and Care regulation. The objective**  
13 **of the work group is to develop strategies for lowering insurance costs for these providers**  
14 **in this state.**

15 “(2) The work group shall consist of members selected by the Department of Early  
16 Learning and Care, in consultation with the Department of Consumer and Business Services.

17 “(3) When making selections for the work group under subsection (2) of this section, the  
18 Department of Early Learning and Care shall, to the extent practicable, select the following  
19 as members:

20 “(a) Representatives from certified, registered, recorded and exempt child care providers  
21 located in different regions of this state.

22 “(b) Representatives from the insurance industry with experience in liability insurance  
23 offered to child care facilities certified under ORS 329A.280, registered under ORS 329A.330  
24 or recorded under ORS 329A.255, or to other types of exempt child care that are not subject  
25 to Department of Early Learning and Care regulation.

26 “(c) Representatives from the Department of Consumer and Business Services with ex-  
27 pertise in liability insurance regulation.

28 “(d) Representatives from the Department of Early Learning and Care with expertise in  
29 licensing and insurance requirements for providers of early learning services and care.

30 “(e) Representatives from the Oregon Department of Administrative Services with ex-  
31 pertise in risk management, including expertise in establishing contractor and grantee in-  
32 surance requirements.

33 “(f) Any other representatives that the Department of Early Learning and Care deter-  
34 mines are necessary to fulfill the purposes of this section.

35 “(4) The Department of Early Learning and Care may select up to five additional mem-  
36 bers provided that such members have experience relevant to the objective of the work group  
37 as described in subsection (1) of this section.

38 “(5) Members of the work group must be individuals who reflect the geographic, racial,  
39 ethnic and gender diversity of this state.

40 “(6) The work group shall review information and research from within Oregon and na-  
41 tionally concerning the impact of liability insurance and regulations pertaining to insurance  
42 requirements applicable to providers of child care and child care facilities as defined in ORS  
43 329A.250, including certain types of care that are exempt from Department of Early Learning  
44 and Care regulation.

45 “(7) The work group shall prepare a report that summarizes the findings of the review

1 required under subsection (6) of this section. The report must:  
2       “(a) Include policy options to increase child care provider access to liability insurance  
3 and to reduce the financial burden of liability insurance on providers of child care; and  
4       “(b) Explore the feasibility of using liability immunity, liability damage caps or other  
5 strategies to address liability issues that affect the availability and affordability of liability  
6 insurance for providers of early learning services and care.  
7       “(8) Not later than November 1, 2027, the work group shall submit the report required  
8 by this section, in the manner provided under ORS 192.245, to the interim committees of the  
9 Legislative Assembly related to early child care. The work group may include in the report  
10 submitted under this subsection recommendations for legislation.  
11       “SECTION 3. Section 2 of this 2026 Act is repealed on January 2, 2029.  
12       “SECTION 4. This 2026 Act takes effect on the 91st day after the date on which the 2026  
13 regular session of the Eighty-third Legislative Assembly adjourns sine die.”.  
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