

Legislative Fiscal Office

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Joint Committee on Ways and Means

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To: Capital Construction Subcommittee

From: Doug Wilson and Gregory Jolivet, Legislative Fiscal Office

Date: June 21, 2021

Subject: HB 3073 – Relating to Early Childhood Governance
Work Session Recommendations

This bill has two major components -- the creation of a new Department of Early Learning and Care (DELIC) and changes to the Employment Related Day Care (ERDC) program.

Major items relating to the new Department of Early Learning and Care in this bill include

- Making the Early Learning Council (ELC) responsible for leading the planning that establishes the goals, objectives and strategies for a statewide early learning system. Also modifies the duties of the ELC.
- Modifies membership and duties of State Interagency Coordinating Council which is responsible for coordinating early intervention and early childhood special education.
- Establishes the separate Department of Early Learning and Care (DELIC) and abolishes the Early Learning Division which is now part of the Oregon Department of Education. The new agency is established on July 1, 2020 in the bill but the amendment (B5) delays that date until January 1, 2023. The Early Learning Director is the head of the new DELIC and the responsibilities and duties and powers of the Director and the new agency are described. The general transfer language moving duties, powers, functions responsibilities, funds, property, records and staff from the Oregon Department of Education to the new agency is included in the bill.

Major items relating to the Employment Related Day Care program include:

Qualifying Income. Currently, households with income up to 250% of the federal poverty level (FPL) qualify for entry to the program. This is a recent change, implemented administratively in March 2020 and continuing through the duration of the Governor's declared state of emergency. Absent any intervention by the Governor or Legislature, when the state of emergency ends, qualifying income will revert back to the pre-COVID level of 185% of FPL,

HB 3073 does not change the income qualifications for ERDC. ODHS and the Early Learning Council would continue to have flexibility to administratively adjust income qualifications.

Copayments. ERDC co-payments are based on a sliding scale. Co-payments have been temporarily suspended during the state of emergency. Before the suspension, the monthly co-payment for a household of three at 100% of FPL was \$216 or 12% of the monthly household income. HB 3073 caps the copayment at 7% of a child's family household income.; however, it should be noted that the copayment structure proposed by the Early Learning Division tops out at less than 3% of monthly household income. Households up to 100% of FPL would not have a share of cost.

Provider Payments - Absent Day Policy. Under the "absent day" policy, providers are paid for the days kids attend child care. During the state of emergency period, this policy has been suspended to mitigate the impact of the COVID-19 pandemic on child care providers. The suspension of this policy generally means that providers are paid for each day of child care for all enrolled kids. HB 3073 requires provider payments to be based on enrollment, not attendance. This will allow the program to pay providers at the beginning of the month for all enrolled children.

Major/Key ERDC Provisions in the bill include:

- Establishes a cap on sliding scale copayments, where copayments may not exceed 7% of household income.
Provides that eligibility for ERDC may not be based on the citizenship or legal status of a child or a child's family.
Establishes a minimum 12-month continuous eligibility period
- Requires provider payments be based on enrollment rather than attendance.
- Requires that eligibility determinations consider the availability of the family to attend the child, regardless of the family's physical presence.
Transfers ERDC to the new Department of Early Learning beginning June 30, 2023 and requires DHS to deliver related records and property. Codifies conditions under which a provider may be eligible to receive a higher rate of reimbursement or other financial incentive
- Requires progress reports by ELD and ODHS to the legislative assembly on the status of plans to implement the measure, progress of the transfer, adoption of rules, fiscal and budgetary impacts, and recommendations.

The -B5 amendment delays the establishment of the new agency from July 1, 2022 until January 1, 2023. The reporting requirements are modified and are moved up ODE and ODHS to September 2021, rather than December 2021.

The necessary appropriation and expenditure limitation language is included in HB 5006. There is \$3.5 million General Fund appropriated to the Oregon Department of Education for staff hired before March 1, 2020 necessary to establish the new agency and develop its

payment systems, accounting structure, Information Technology systems, employee hiring processes and other activities. The funding is for all 24 months of the biennium for these positions. A special purpose appropriation to the Emergency Board of \$5.1 million General Fund is included for those staffing costs for staff hired after March 1, 2020 and other costs of the new agency. Finally, Other Funds expenditure limitation of \$95.0 million is provided to the Department of Human Services for the ERDC costs. These funds are resources transferred from the Early Learning Division and then DELC and one-time ARPA funding specifically for early learning and child care from the most recent federal COVID related legislation.

Recommended Changes

LFO recommends adoption of the -B5 amendment.

Final Subcommittee Action

LFO recommends that HB 3073, as amended by the -B5 amendment, to be moved to the Ways and Means Full Committee.

Carriers

Full Committee: _____

House Floor: _____

Senate Floor: _____