

**SENATE AMENDMENTS TO  
C-ENGROSSED HOUSE BILL 3073  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON RULES

June 26

1 On page 1 of the printed C-engrossed bill, line 8, after “329A.493” insert “and section 2, chapter  
2 89, Oregon Laws 2021 (Enrolled House Bill 2059)”.

3 On page 12, after line 41, insert:

4 **“SECTION 8b. Section 2, chapter 89, Oregon Laws 2021 (Enrolled House Bill 2059)**  
5 **(amending ORS 329A.500), is repealed and ORS 329A.500, as amended by section 8 of this 2021**  
6 **Act, is amended to read:**

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

9 “(2) The Department of Human Services and the Early Learning Council shall adopt rules for  
10 the operation of the Employment Related Day Care subsidy program administered by the depart-  
11 ment.

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

15 “(a) Cultural diversity;

16 “(b) Linguistic diversity;

17 “(c) Racial and ethnic diversity; and

18 “(d) Diversity of provider types.

19 “(4) The rules adopted under this section must provide that:

20 “(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program  
21 must be based on:

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

23 “(B) Any other criteria established by the department.

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

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

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

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

30 **“(d) A child’s family may qualify for an incentive if the family voluntarily chooses a child**  
31 **care provider that participates in the quality recognition and improvement system estab-**  
32 **lished under ORS 329A.261. A fair representation of the recipients who qualify for incentives**  
33 **must be families with children who are from underserved racial, ethnic or minority popu-**  
34 **lations. In addition, child care providers that participate in the quality recognition and im-**

1 **provement system may receive financial incentives under the subsidy programs in**  
2 **accordance with criteria established by rule.**

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

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

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

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

16 “(b) Notwithstanding any provision of this section or any rule adopted by the department pur-  
17 suant to this section, the laws and regulations applicable to any federal funds shall govern when  
18 any aspect of child care is funded by federal funds.”.

19 On page 13, after line 3, insert:

20 “**SECTION 9a. The amendments to ORS 329A.500 by section 8b of this 2021 Act become**  
21 **operative on January 1, 2022.**”.

22 On page 59, delete lines 27 through 45.

23 On page 60, delete lines 1 through 44 and insert:

24 “**SECTION 73.** ORS 329A.500, as amended by sections 8 and 8b of this 2021 Act, is amended to  
25 read:

26 “329A.500. (1) As used in this section, ‘family’ means any individual who is responsible for the  
27 care, control and supervision of a child.

28 “(2) The [*Department of Human Services and the*] Early Learning Council shall adopt rules for  
29 the operation of the Employment Related Day Care subsidy program administered by the Depart-  
30 ment **of Early Learning and Care.**

31 “(3) The rules adopted under this section must support equitable access to a supply of diverse  
32 child care providers that meet the needs of families, as those needs are defined by the [*department*]  
33 **council** by rule, including:

34 “(a) Cultural diversity;

35 “(b) Linguistic diversity;

36 “(c) Racial and ethnic diversity; and

37 “(d) Diversity of provider types.

38 “(4) The rules adopted under this section must provide that:

39 “(a) A child’s eligibility to participate in the Employment Related Day Care subsidy program  
40 must be based on:

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

42 “(B) Any other criteria established by the [*department*] **council.**

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

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

45 “(B) Enables the child’s family to complete activities that relate to family well-being, which may

1 include the family’s work hours, education hours, commute time, study time and other activities that  
2 support family well-being.

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

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

10 “(e) **A child care provider may be eligible to receive a higher rate of reimbursement or  
11 other financial incentives for:**

12 “(A) **Participating in quality improvement measures;**

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

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

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

16 “(E) **Providing infant or toddler care;**

17 “(F) **Providing care to a population that has been identified as historically having an in-  
18 adequate child care provider supply; or**

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

20 “(5) Taking into account the availability of funds, the rules adopted under this section [*must*  
21 *establish*]:

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

24 “(b) **Must provide that eligibility to participate in the Employment Related Day Care  
25 subsidy program:**

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

27 “(B) **Shall, for a child who met the initial eligibility requirements prescribed under sub-  
28 section (4) of this section, continue for a minimum of 12 months from the date of initial el-  
29 igibility unless the child’s family leaves this state or requests a termination of benefits or  
30 for any other reason identified by the council. Rules adopted under this subparagraph shall  
31 give priority to families receiving temporary assistance under the temporary assistance for  
32 needy families program described in ORS 412.006.**

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

36 “(6) In developing rules under this section, the [*department*] **council** shall consider policies for  
37 increasing the stability and continuity of a child’s access to a family’s preferred child care provider.

38 “(7) Rules adopted by the [*department*] **council** under this section establish minimum require-  
39 ments pertaining to the Employment Related Day Care subsidy program and may not be construed  
40 to preempt, limit or otherwise diminish the applicability of any policy, standard or collective bar-  
41 gaining agreement that provides for an increased subsidy or a child care provider reimbursement  
42 amount under state or federal law.

43 “(8)(a) The [*department*] **council** shall work to meet federal recommendations for income eligi-  
44 bility and market access in regard to the Employment Related Day Care subsidy program adminis-  
45 tered by the [*department*] **council.**

