

Requested by SENATE COMMITTEE ON RULES

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

1 On page 1 of the printed C-engrossed bill, line 8, after “329A.493” insert
2 “and section 2, chapter 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**
5 **House Bill 2059) (amending ORS 329A.500), is repealed and ORS**
6 **329A.500, as amended by section 8 of this 2021 Act, is amended to read:**

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

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

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

1 Care subsidy program must be based on:

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

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

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

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

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

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

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

21 “(5) Taking into account the availability of funds, the rules adopted under
22 this section must establish a sliding scale for copayment, with the require-
23 ment that a copayment may not exceed seven percent of the household in-
24 come of the child’s family.

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

28 “(7) Rules adopted by the department under this section establish mini-
29 mum requirements pertaining to the Employment Related Day Care subsidy
30 program and may not be construed to preempt, limit or otherwise diminish

1 the applicability of any policy, standard or collective bargaining agreement
2 that provides for an increased subsidy or a child care provider reimburse-
3 ment amount under state or federal law.

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

7 “(b) Notwithstanding any provision of this section or any rule adopted
8 by the department pursuant to this section, the laws and regulations appli-
9 cable to any federal funds shall govern when any aspect of child care is
10 funded by federal funds.”.

11 On page 13, after line 3, insert:

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

14 On page 59, delete lines 27 through 45.

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

16 **“SECTION 73. ORS 329A.500, as amended by sections 8 and 8b of this
17 2021 Act, is amended to read:**

18 “329A.500. (1) As used in this section, ‘family’ means any individual who
19 is responsible for the care, control and supervision of a child.

20 “(2) The [*Department of Human Services and the*] Early Learning Council
21 shall adopt rules for the operation of the Employment Related Day Care
22 subsidy program administered by the Department **of Early Learning and
23 Care.**

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

27 “(a) Cultural diversity;

28 “(b) Linguistic diversity;

29 “(c) Racial and ethnic diversity; and

30 “(d) Diversity of provider types.

1 “(4) The rules adopted under this section must provide that:
2 “(a) A child’s eligibility to participate in the Employment Related Day
3 Care subsidy program must be based on:
4 “(A) The household income of a child’s family; and
5 “(B) Any other criteria established by the [department] **council**.
6 “(b) A child must be able to receive care that:
7 “(A) Meets the child’s developmental, disability and neurodiversity needs;
8 and
9 “(B) Enables the child’s family to complete activities that relate to family
10 well-being, which may include the family’s work hours, education hours,
11 commute time, study time and other activities that support family well-being.
12 “(c) Payment to child care providers must be based on enrollment instead
13 of attendance.
14 “(d) A child’s family may qualify for an incentive if the family voluntarily
15 chooses a child care provider that participates in the quality recognition and
16 improvement system established under ORS 329A.261. A fair representation
17 of the recipients who qualify for incentives must be families with children
18 who are from underserved racial, ethnic or minority populations. In addition,
19 child care providers that participate in the quality recognition and im-
20 provement system may receive financial incentives under the subsidy pro-
21 grams in accordance with criteria established by rule.
22 “(e) **A child care provider may be eligible to receive a higher rate**
23 **of reimbursement or other financial incentives for:**
24 “(A) **Participating in quality improvement measures;**
25 “(B) **Providing culturally or linguistically specific or appropriate**
26 **care;**
27 “(C) **Providing evening, overnight or weekend care;**
28 “(D) **Providing care to children with a diagnosed disability;**
29 “(E) **Providing infant or toddler care;**
30 “(F) **Providing care to a population that has been identified as his-**

1 **torically having an inadequate child care provider supply; or**

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

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

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

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

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

13 **“(B) Shall, for a child who met the initial eligibility requirements**
14 **prescribed under subsection (4) of this section, continue for a mini-**
15 **imum of 12 months from the date of initial eligibility unless the child’s**
16 **family leaves this state or requests a termination of benefits or for any**
17 **other reason identified by the council. Rules adopted under this sub-**
18 **paragraph shall give priority to families receiving temporary assist-**
19 **ance under the temporary assistance for needy families program**
20 **described in ORS 412.006.**

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

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

28 **“(7) Rules adopted by the [*department*] council under this section estab-**
29 **lish minimum requirements pertaining to the Employment Related Day Care**
30 **subsidy program and may not be construed to preempt, limit or otherwise**

1 diminish the applicability of any policy, standard or collective bargaining
2 agreement that provides for an increased subsidy or a child care provider
3 reimbursement amount under state or federal law.

4 “(8)(a) The [*department*] **council** shall work to meet federal recommen-
5 dations for income eligibility and market access in regard to the Employment
6 Related Day Care subsidy program administered by the [*department*]
7 **council**.

8 “(b) Notwithstanding any provision of this section or any rule adopted
9 by the [*department*] **council** pursuant to this section, the laws and regu-
10 lations applicable to any federal funds shall govern when any aspect of child
11 care is funded by federal funds.”.

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