

Enrolled
House Bill 4005

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Early Childhood for Representative Karin Power)

CHAPTER

AN ACT

Relating to early childhood; creating new provisions; amending ORS 307.480, 315.208, 327.274, 329A.010, 329A.030, 329A.120, 329A.135, 329A.250, 329A.270, 329A.310, 329A.500, 329A.992, 419B.005, 419B.035, 433.235, 609.652, 742.260 and 825.017 and section 5, chapter 576, Oregon Laws 2021, and sections 10 and 64, chapter 631, Oregon Laws 2021; and declaring an emergency.

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

TRANSITION TO DEPARTMENT OF EARLY LEARNING AND CARE

SECTION 1. Section 64, chapter 631, Oregon Laws 2021, is amended to read:

Sec. 64. (1) [*Sections 12 and 13 of this 2021 Act*] **ORS 326.432 and 329A.750**, the amendments to ORS 131A.360, 131A.365, 183.459, 279A.050, 326.425, 326.430, 326.435, 327.269, 327.274, 329.155, 329.156, 329.165, 329.170, 329.172, 329.175, 329.181, 329.183, 329.185, 329.195, 329.200, 329.219, 329.841, 329.843, 329.845, 329A.010, 329A.120, 329A.135, 329A.250, 329A.261, 329A.712, 336.101, 336.104, 343.465, 343.475, 343.499, 417.781, 417.782, 417.784, 417.788, 417.790, 417.793, 417.795, 417.796, 417.827, 417.829, 419B.005, 433.301, 609.652, 805.205 and 805.207 by sections 11 and 14 to 62 [*of this 2021 Act*], **chapter 631, Oregon Laws 2021**, and the repeal of ORS 329.145, 329.150, 329.190, 329A.490 and 329A.493 by section 63 [*of this 2021 Act*], **chapter 631, Oregon Laws 2021**, become operative on [*January*] **July 1, 2023**.

(2) Notwithstanding the operative date set forth in subsection (1) of this section, the Early Learning Division and the Department of Education may take any action before the operative date set forth in subsection (1) of this section that is necessary for the Department of Early Learning and Care to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the Department of Early Learning and Care by [*sections 12 and 13 of this 2021 Act*], **ORS 326.432 and 329A.750** and the amendments to ORS 131A.360, 131A.365, 183.459, 279A.050, 326.425, 326.430, 326.435, 327.269, 327.274, 329.155, 329.156, 329.165, 329.170, 329.172, 329.175, 329.181, 329.183, 329.185, 329.195, 329.200, 329.219, 329.841, 329.843, 329.845, 329A.010, 329A.120, 329A.135, 329A.250, 329A.261, 329A.712, 336.101, 336.104, 343.465, 343.475, 343.499, 417.781, 417.782, 417.784, 417.788, 417.790, 417.793, 417.795, 417.796, 417.827, 417.829, 419B.005, 433.301, 609.652, 805.205 and 805.207 by sections 11 and 14 to 62 [*of this 2021 Act*], **chapter 631, Oregon Laws 2021**.

(3) For the purpose of ensuring that the Department of Early Learning and Care may exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the Department of Early Learning and Care by [*sections 12 and 13 of this*

2021 Act] **ORS 326.432 and 329A.750** and the amendments to ORS 131A.360, 131A.365, 183.459, 279A.050, 326.425, 326.430, 326.435, 327.269, 327.274, 329.155, 329.156, 329.165, 329.170, 329.172, 329.175, 329.181, 329.183, 329.185, 329.195, 329.200, 329.219, 329.841, 329.843, 329.845, 329A.010, 329A.120, 329A.135, 329A.250, 329A.261, 329A.712, 336.101, 336.104, 343.465, 343.475, 343.499, 417.781, 417.782, 417.784, 417.788, 417.790, 417.793, 417.795, 417.796, 417.827, 417.829, 419B.005, 433.301, 609.652, 805.205 and 805.207 by sections 11 and 14 to 62 [of this 2021 Act], **chapter 631, Oregon Laws 2021**, the Early Learning Division and the Department of Education shall develop and implement a plan that provides for a seamless transfer of duties, functions and powers.

(4) The Governor shall resolve any disputes related to the plan developed and implemented under subsection (3) of this section, and the Governor's decision is final.

TRUE COST OF EMPLOYMENT RELATED DAY CARE

SECTION 2. Section 10, chapter 631, Oregon Laws 2021, is amended to read:

Sec. 10. (1) No later than July 1, [2022] **2023**, the Early Learning Council shall establish by rule a process by which to determine the true cost of child care compared to the market rate cost **for purposes of the Employment Related Day Care subsidy program**.

(2) No later than December 31, 2022, the Early Learning Division shall submit a report to the appropriate interim committees of the Legislative Assembly on the transition to a rate of reimbursement that reflects the true cost of providing care.

CHILD CARE RESOURCE AND REFERRAL SYSTEM

SECTION 3. ORS 329A.120 is amended to read:

329A.120. (1) The Office of Child Care shall implement, **administer and maintain** the resource and referral system.

(2) Resource and referral entities must provide services including, but not limited to:

(a) Training and technical assistance for existing and potential child care providers that includes, but is not limited to, coaching, mentoring, consulting and advising on professional development;

(b) Referrals for parents or guardians seeking child care providers; or

(c) Recruitment of qualified individuals to meet the child care needs of a community.

SECTION 4. ORS 329A.120, as amended by section 38, chapter 631, Oregon Laws 2021, is amended to read:

329A.120. (1) The Department of Early Learning and Care shall implement, **administer and maintain** the resource and referral system.

(2) Resource and referral entities must provide services including, but not limited to:

(a) Training and technical assistance for existing and potential child care providers that includes, but is not limited to, coaching, mentoring, consulting and advising on professional development;

(b) Referrals for parents or guardians seeking child care providers; or

(c) Recruitment of qualified individuals to meet the child care needs of a community.

SECTION 5. ORS 329A.135 is amended to read:

329A.135. (1) The Office of Child Care shall implement federal requirements for the resource and referral system.

(2) The office shall establish criteria for proposals, prepare requests for proposals, receive proposals and award grants or enter into agreements [for the establishment of] **to establish, support, fund, maintain and expand** resource and referral entities.

SECTION 6. ORS 329A.135, as amended by section 39, chapter 631, Oregon Laws 2021, is amended to read:

329A.135. (1) The Department of Early Learning and Care shall implement federal requirements for the resource and referral system.

(2) The department shall establish criteria for proposals, prepare requests for proposals, receive proposals and award grants or enter into agreements [for the establishment of] **to establish, support, fund, maintain and expand** resource and referral entities.

IMPLEMENTATION OF PROHIBITION ON SUSPENSION OR EXPULSION

SECTION 7. Section 5, chapter 576, Oregon Laws 2021, is amended to read:

Sec. 5. No later than [July 1, 2022] **November 15, 2023**, the Early Learning Division must submit to the appropriate interim committees of the Legislative Assembly a report on the proposed implementation of section 3 [of this 2021 Act], **chapter 576, Oregon Laws 2021**. The report must include a description of the processes for conducting investigations and contested case hearings under ORS chapter 183 for any violations of section 3 [of this 2021 Act], **chapter 576, Oregon Laws 2021**, and must make any related recommendations for legislation.

INFORMATION SHARING WITH STATE AGENCIES

SECTION 8. ORS 329A.010 is amended to read:

329A.010. (1) There is established within the Early Learning Division the Office of Child Care.

(2)(a) The Office of Child Care, as designated by the Governor, shall be responsible for administering funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of 2014, the Child Care and Development Fund and other federal child care funds and grants received by the State of Oregon.

(b) Through the legislative budgeting process, the Legislative Assembly shall identify the portion of the funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of 2014 to be spent to provide quality child care, to provide child care subsidies and for administrative expenditures. The Office of Child Care shall administer the funds according to the portions identified by the Legislative Assembly.

(c) The Office of Child Care shall submit an annual report to the Legislative Fiscal Office regarding the expenditures of the funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of 2014 and the most recent estimate of the balance of the funds.

(3) The Office of Child Care shall comply with directives of the Early Learning Council established in ORS 326.425 in the office's implementation of the provisions of ORS 329A.250 to 329A.450.

(4) The Office of Child Care may maintain information about child care facilities and providers through electronic records systems.

[5] *The Office of Child Care may share information with other public entities when the office determines that sharing the information would support the health or safety of children in child care, except as otherwise prohibited by state or federal law.*

(5) Except as otherwise prohibited by state or federal law, the Office of Child Care may share information with:

(a) Other public entities when the office determines that sharing the information would support the health or safety of children in child care; and

(b) Within the Early Learning Division for purposes of:

(A) Developing a long-range plan for serving children and families, as provided by ORS 329.165;

(B) Administering preschool programs, as provided by ORS 329.170 to 329.200; and

(C) Implementing policies and practices related to early childhood professional development systems, as provided by ORS 329.219.

(6) There is established in the State Treasury, separate and distinct from the General Fund, the Child Care Fund. The Child Care Fund shall consist of moneys collected and received by the Office of Child Care pursuant to subsection (2) of this section, ORS 329A.310 and 329A.992 and such moneys as may be otherwise made available by law. Interest earned on the fund shall be credited to the

fund. The moneys in the Child Care Fund are appropriated continuously to the Office of Child Care and shall be used in a manner consistent with the grant of funds or for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

SECTION 9. ORS 329A.010, as amended by section 37, chapter 631, Oregon Laws 2021, is amended to read:

329A.010. (1) There is established within the Department of Early Learning and Care the Office of Child Care.

(2) The Office of Child Care shall comply with directives of the Early Learning Council established in ORS 326.425 in the office's implementation of the provisions of ORS 329A.250 to 329A.450.

(3) The Office of Child Care may maintain information about child care facilities and providers through electronic records systems.

[(4) The Office of Child Care may share information with other public entities when the office determines that sharing the information would support the health or safety of children in child care, except as otherwise prohibited by state or federal law.]

(4) Except as otherwise prohibited by state or federal law, the Office of Child Care may share information with:

(a) Other public entities when the office determines that sharing the information would support the health or safety of children in child care; and

(b) Within the Department of Early Learning and Care for purposes of:

(A) Developing a long-range plan for serving children and families, as provided by ORS 329.165;

(B) Administering preschool programs, as provided by ORS 329.170 to 329.200; and

(C) Implementing policies and practices related to early childhood professional development systems, as provided by ORS 329.219.

(5) There is established in the State Treasury, separate and distinct from the General Fund, the Child Care Fund. The Child Care Fund shall consist of moneys collected, received and administered by the Office of Child Care and Department of Early Learning and Care pursuant to ORS 329A.310, 329A.700 to 329A.712, 329A.750 and 329A.992 and such moneys as may be otherwise made available by law. Interest earned on the fund shall be credited to the fund. The moneys in the Child Care Fund are appropriated continuously to the Department of Early Learning and Care and shall be used in a manner consistent with the grant of funds or for the administration of ORS 181A.200, 329A.030, 329A.250 to 329A.450 and 329A.700 to 329A.712.

SECTION 10. ORS 419B.035 is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant or nurse practitioner, regarding any child brought to the physician, physician assistant or nurse practitioner or coming before the physician, physician assistant or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and adjudicated youths under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

[(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;]

(f) The Early Learning Division for the purpose of carrying out the functions of the division, including the certification, registration or regulation of child care facilities and child care providers and the administration of enrollment in the Central Background Registry;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 339.390 or 342.176 involving any child or any student;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;

[(j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and (i);]

(j) The Office of Child Care for purposes of applications described in ORS 329A.030 (10)(c)(G), (H) and (I);

(k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon;

(L) The Department of Education for purposes of investigations conducted under ORS 339.391; and

(m) An education provider for the purpose of making determinations under ORS 339.388.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect or necessary to determine a claim for crime victim compensation under ORS 147.005 to 147.367.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections, to the Oregon Youth Authority or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on

probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to the Oregon Youth Authority, law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections, the Oregon Youth Authority or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections, the Oregon Youth Authority and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) The Department of Corrections and the Oregon Youth Authority may disclose records made available to them under subsection (5) of this section regarding a person in the custody of the Department of Corrections or the Oregon Youth Authority to each other, to the court, to the district attorney and to the person's attorney for the purpose of the person's hearing under ORS 420A.200 to 420A.206.

(C) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) Except as provided by ORS 339.389, an officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181A.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

CHILD CARE CENTRAL BACKGROUND REGISTRY

SECTION 11. ORS 307.480 is amended to read:

307.480. As used in ORS 307.480 to 307.510 unless the context requires otherwise:

(1) "Agricultural workforce housing" means housing:

(a) That is limited to occupancy by agricultural workers, including agricultural workers who are retired or disabled, and the immediate family members of the agricultural workers; and

(b) No dwelling unit of which is occupied by a relative of the owner or operator of the agricultural workforce housing, other than a manufactured dwelling in a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803.

(2) "Eligible agricultural workforce housing" means agricultural workforce housing that:

(a) Is owned or operated by a nonprofit corporation as a nonprofit facility;

(b) Is not provided in connection with the recruitment or employment of agricultural workers; and

(c) Complies with all applicable local, state and federal building codes.

(3) "Eligible child care facility" means a child care facility that is:

- (a) Certified under ORS [329A.030 and] 329A.250 to 329A.450;
- (b) Owned or operated by a nonprofit corporation as a nonprofit facility; and
- (c) Operated in conjunction or cooperation with an eligible farm labor camp.
- (4) "Eligible farm labor camp" means a farm labor camp that:
 - (a) Is owned or operated by a nonprofit corporation as a nonprofit facility; and
 - (b) Complies with the safety and health standards for agricultural labor housing and related facilities adopted under the Oregon Safe Employment Act.
- (5) "Farm labor camp" means any place, area or piece of land where housing or sleeping places are owned or maintained:
 - (a) By a person engaged in the business of providing housing or sleeping places for employees or prospective employees of another person and the immediate families of the employees or prospective employees if the employees or prospective employees are or will be engaged in agricultural work. Eligible farm labor camps may provide housing to workers not currently engaged in agricultural work if agricultural work is not available and employees or prospective employees are required either to engage in agricultural work or to leave the farm labor camp once agricultural work becomes available in the area.
 - (b) In connection with any work or place where agricultural work is being performed, whether the housing or sleeping places are owned or maintained by the employer or by another person.
- (6) "Owned or operated by a nonprofit corporation as a nonprofit facility" includes, but is not limited to:
 - (a) The possession or operation of agricultural workforce housing, child care facility or farm labor camp property by a nonprofit corporation pursuant to a written lease or lease-purchase agreement if:
 - (A) The nonprofit corporation is obligated under the terms of the lease or lease-purchase agreement to pay the ad valorem taxes on the property used in operating the agricultural workforce housing, child care facility or farm labor camp; or
 - (B) The rent payable by the nonprofit corporation has been established to reflect the savings resulting from the exemption from taxation.
 - (b) The possession or operation of the property by a partnership of which the nonprofit corporation is:
 - (A) A general partner or the general manager; and
 - (B) Responsible for the day-to-day operation of the property.
- (7)(a) "Rental" means the net amount of income from eligible agricultural workforce housing, an eligible child care facility or an eligible farm labor camp after deduction of costs paid or incurred in the operation of the housing, facility or camp.
 - (b) Deductible costs under this subsection:
 - (A) Include, but are not limited to, salaries or other compensation, insurance, utilities, garbage disposal, supplies, repairs and maintenance, interest and capital costs, whether capitalized and depreciated or amortized or deducted currently.
 - (B) Do not include in lieu taxes imposed under ORS 307.490.

SECTION 12. ORS 315.208 is amended to read:

315.208. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation that is an employer, under ORS chapter 317 or 318) is allowed to an employer, based upon costs actually paid or incurred by the employer, to acquire, construct, reconstruct, renovate or otherwise improve real property so that the property may be used primarily as a dependent care facility.

(2) The credit allowed under this section shall be the least of:

- (a) \$2,500 multiplied by the number of full-time equivalent employees employed by the employer (on the property or within such proximity to the property that any dependents of the employees may be cared for in the facility) on any date within the two years immediately preceding the end of the first tax year for which credit is first claimed;

(b) Fifty percent of the cost of the acquisition, construction, reconstruction, renovation or other improvement; or

(c) \$100,000.

(3) To qualify for the credit allowed under subsection (1) of this section:

(a) The amounts paid or incurred by the employer for the acquisition, construction, reconstruction, renovation or other improvement to real property may be paid or incurred either:

(A) To another to be used to acquire, construct, reconstruct, renovate or otherwise improve real property to the end that it may be used as a dependent care facility with which the employer contracts to make dependent care assistance payments which payments are wholly or partially entitled to exclusion from income of the employee for federal tax purposes under section 129 of the Internal Revenue Code; or

(B) To acquire, construct, reconstruct, renovate or otherwise improve real property to the end that it may be operated by the employer, or a combination of employers, to provide dependent care assistance to the employees of the employer under a program or programs under which the assistance is, under section 129 of the Internal Revenue Code, wholly or partially excluded from the income of the employee.

(b) The property must be in actual use as a dependent care facility on the last day of the tax year for which credit is claimed and dependent care services assisted by the employer must take place on the acquired, constructed, reconstructed, renovated or improved property and must be entitled to an exclusion (whole or partial) from the income of the employee for federal tax purposes under section 129 of the Internal Revenue Code on the last day of the tax year for which credit is claimed.

(c) The person or persons operating the dependent care facility on the property acquired, constructed, reconstructed, renovated or improved must hold a certification (temporary or not) issued under ORS [329A.030 and] 329A.250 to 329A.450 by the Office of Child Care to operate the facility on the property on the last day of the tax year of any tax year in which credit under this section is claimed.

(d) The dependent care facility acquired, constructed, reconstructed, renovated or otherwise improved must be located in Oregon. No credit shall be allowed under this section if the dependent care facility is not acquired, constructed, reconstructed, renovated or improved to accommodate six or more children.

(e) The employer must meet any other requirements or furnish any information, including information furnished by the employees or person operating the dependent care facility, to the Department of Revenue that the department requires under its rules to carry out the purposes of this section.

(f) The dependent care facility, the costs of the acquisition, construction, reconstruction, renovation or improvement upon which the credit granted under this section is based, must be placed in operation before January 1, 2002.

(4) The total amount of the costs upon which the credit allowable under this section is based, and the total amount of the credit, shall be determined by the employer, subject to any rules adopted by the department, during the tax year in which the property acquired, constructed, reconstructed, renovated or otherwise improved is first placed in operation as a dependent care facility certified by the Office of Child Care under ORS [329A.030 and] 329A.250 to 329A.450. One-tenth of the total credit is allowable in that tax year and one-tenth of the total credit is allowable in each succeeding tax year, not to exceed nine tax years, thereafter. No credit shall be allowed under this section for any tax year at the end of which the dependent care facility is not in actual operation under a current certification (temporary or not) issued by the Office of Child Care nor shall any credit be allowed for any tax year at the end of which the employer is not providing dependent care assistance entitled to exclusion (whole or partial) from employee income for federal tax purposes under section 129 of the Internal Revenue Code for dependent care on the property. Any tax credit allowable under this section in a tax year may be carried forward in the same manner and to the same tax years as if it were a tax credit described in ORS 315.204.

(5) Nothing in this section shall affect the computation of depreciation or basis of a dependent care facility. If a deduction is allowed for purposes of ORS chapter 316, 317 or 318 for the amounts paid or incurred upon which the credit under this section is based, the deduction shall be reduced by the dollar amount of the credit granted under this section.

(6) For purposes of the credit allowed under this section:

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code shall apply to the extent applicable.

(b) "Employer" means a resident, part-year resident or full-year nonresident employer carrying on a business, trade, occupation or profession in this state.

(7) The department shall require that evidence that the person operating the dependent care facility on the date that the taxpayer's tax year ends holds a current certification (temporary or otherwise) to operate the facility accompany the tax return on which any amount of tax credit granted under this section is claimed, or that such evidence be separately furnished. If the evidence is not so furnished, no credit shall be allowed for the tax year for which the evidence is not furnished. The Office of Child Care shall cooperate by making such evidence, in an appropriate form, available to the person operating the facility, if the person is currently certified (temporary or not) so that, if necessary, it may be made available to the taxpayer.

SECTION 13. ORS 329A.270 is amended to read:

329A.270. (1) A certification or registration authorized by ORS [329A.030 and] 329A.250 to 329A.450 and issued to a child care facility may be renewed upon submission of an application and payment of the required fee not later than 30 days prior to the expiration date of the current certification or registration if the Office of Child Care finds that the child care facility that is seeking renewal of the certification or registration is in compliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

(2) Upon submission of an application for renewal in proper time, manner and form, and payment of the required fee, the current certification or registration, unless officially revoked, shall remain in force until the Office of Child Care has acted on the application for renewal and has given notice of the action taken.

SECTION 14. ORS 329A.310 is amended to read:

329A.310. (1) Application for a certification or for the annual renewal thereof shall be made to the Office of Child Care on forms provided by the office and accompanied by a nonrefundable fee. The fee shall vary according to the type of facility and the number of children for which the facility is requesting to be certified, and shall be determined and applied through rules adopted by the Early Learning Council pursuant to ORS 329A.275.

(2) All fees received under subsection (1) of this section shall be deposited in the Child Care Fund established under ORS 329A.010 and may be used for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.

(3) Any certification issued pursuant to ORS [329A.030 and] 329A.250 to 329A.450 authorizes operation of the facility only on the premises described in the certification and only by the person named in the certification.

(4) Unless sooner revoked, a temporary certification expires on the date specified therein. Unless sooner revoked and except as provided in ORS 329A.270 (2), an annual certification expires one year from the date of issuance.

SECTION 15. ORS 329A.992, as amended by section 27 of this 2022 Act, is amended to read:

329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may:

(a) Suspend or revoke a certification or registration issued under ORS [329A.030 and] 329A.250 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

(A) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;

(B) The terms and conditions of a certification or registration issued under ORS [329A.030 and] 329A.250 to 329A.450; or

(C) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to 329A.450.

(b) Impose a civil penalty in the manner provided in ORS 183.745 and file for injunctive relief in a circuit court for the provision of child care, or for having a child in an individual's care, in violation of ORS 329A.030 (2).

(c) Remove an individual described in ORS 329A.030 (10)(d) from the Central Background Registry, or impose a civil penalty in the manner provided in ORS 183.745, for the individual's or the subsidized care facility's violation of:

(A) Any of the provisions of ORS 329A.030 or 329A.500; or

(B) Any rule of the Early Learning Council adopted under ORS 329A.030, 329A.500 or 329A.505 or of the Department of Human Services adopted under ORS 329A.500.

(2) The Early Learning Council may adopt by rule a schedule establishing the civil penalties that may be imposed under this section.

(3) Except as provided in subsection (4) of this section, penalties imposed under this section may not exceed:

(a) \$750 per violation for a registered family child care home.

(b) \$1,200 per violation for a certified family child care home.

(c) \$2,500 per violation for a certified child care center that is not a family child care home.

(4) The office may impose a civil penalty of not more than \$1,500 for a child care facility that provides child care without a valid:

(a) Certification, in violation of ORS 329A.280; or

(b) Registration, in violation of ORS 329A.330.

(5) Each day that a child care facility is operating in violation of any of the provisions described in subsection (1) of this section is a separate violation.

(6) The office may revoke a child care facility's certification or registration or deny a child care facility's renewal application for a certification or registration if the facility fails to pay a civil penalty after the order imposing the penalty becomes final.

(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the office considers proper and consistent with the public health and safety.

(8) All moneys received under this section shall be paid into the State Treasury and credited to the General Fund.

SECTION 16. ORS 419B.005, as amended by section 58, chapter 631, Oregon Laws 2021, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475C.009, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) "Higher education institution" means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse.

(b) "Investigation" does not include screening activities conducted upon the receipt of a report.

(5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.121 or 353.125.

(e) A county juvenile department.

(6) "Public or private official" means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.

(c) School employee, including an employee of a higher education institution.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, Department of Early Learning and Care, Department of Education, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

- (k) Chiropractor.
 - (L) Certified provider of foster care, or an employee thereof.
 - (m) Attorney.
 - (n) Licensed professional counselor.
 - (o) Licensed marriage and family therapist.
 - (p) Firefighter or emergency medical services provider.
 - (q) A court appointed special advocate, as defined in ORS 419A.004.
 - (r) A child care provider registered or certified under ORS [329A.030 and] 329A.250 to 329A.450.
 - (s) An elected official of a branch of government of this state or a state agency, board, commission or department of a branch of government of this state or of a city, county or other political subdivision in this state.
 - (t) Physical, speech or occupational therapist.
 - (u) Audiologist.
 - (v) Speech-language pathologist.
 - (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
 - (x) Pharmacist.
 - (y) An operator of a preschool recorded program under ORS 329A.255.
 - (z) An operator of a school-age recorded program under ORS 329A.257.
 - (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
 - (bb) An employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to an employee of a:
 - (i) Youth group or center;
 - (ii) Scout group or camp;
 - (iii) Summer or day camp;
 - (iv) Survival camp; or
 - (v) Group, center or camp that is operated under the guidance, supervision or auspices of a religious, public or private educational system or a community service organization; and
 - (B) Excluding an employee of a qualified victim services program as defined in ORS 147.600 that provides confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
 - (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
 - (dd) Personal support worker, as defined in ORS 410.600.
 - (ee) Home care worker, as defined in ORS 410.600.
 - (ff) Animal control officer, as defined in ORS 609.500.
 - (gg) Member of a school district board, an education service district board or a public charter school governing body.
 - (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.
 - (ii) Referral agent, as defined in ORS 418.351.
- SECTION 17.** ORS 433.235 is amended to read:
 433.235. As used in ORS 433.235 to 433.284:
- (1) "Administrator" means the principal or other person having general control and supervision of a school or children's facility.
 - (2) "Children's facility" or "facility" means:
 - (a) A certified child care facility as described in ORS [329A.030 and] 329A.250 to 329A.450, except as exempted by rule of the Oregon Health Authority;

(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the authority; or

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the authority.

(3) "Local health department" has the meaning given that term in ORS 431.003.

(4) "Parent" means a parent or guardian of a child or any adult responsible for the child.

(5) "Physician" means a physician licensed by the Oregon Medical Board or by the Oregon Board of Naturopathic Medicine or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) "School" means a public, private, parochial, charter or alternative educational program offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the authority.

SECTION 18. ORS 609.652, as amended by section 60, chapter 631, Oregon Laws 2021, is amended to read:

609.652. As used in ORS 609.654:

(1)(a) "Aggravated animal abuse" means any animal abuse as described in ORS 167.322.

(b) "Aggravated animal abuse" does not include:

(A) Good animal husbandry, as defined in ORS 167.310; or

(B) Any exemption listed in ORS 167.335.

(2) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) A police department established by a university under ORS 352.121 or 353.125.

(c) Any county sheriff's office.

(d) The Oregon State Police.

(e) A law enforcement division of a county or municipal animal control agency that employs sworn officers.

(f) A humane investigation agency as defined in ORS 181A.340 that employs humane special agents commissioned under ORS 181A.340.

(3) "Public or private official" means:

(a) A physician, including any intern or resident.

(b) A dentist.

(c) A school employee.

(d) A licensed practical nurse or registered nurse.

(e) An employee of the Department of Human Services, Oregon Health Authority, Department of Early Learning and Care, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as defined in ORS 418.205 or an alcohol and drug treatment program.

(f) A peace officer.

(g) A psychologist.

(h) A member of the clergy.

(i) A regulated social worker.

(j) An optometrist.

(k) A chiropractor.

(L) A certified provider of foster care, or an employee thereof.

(m) An attorney.

(n) A naturopathic physician.

(o) A licensed professional counselor.

(p) A licensed marriage and family therapist.

- (q) A firefighter or emergency medical services provider.
- (r) A court appointed special advocate, as defined in ORS 419A.004.
- (s) A child care provider registered or certified under ORS [329A.030 and] 329A.250 to 329A.450.
- (t) A member of the Legislative Assembly.

SECTION 19. ORS 742.260 is amended to read:

742.260. (1) An insurer offering homeowner or renter liability or fire insurance may not cancel or refuse to issue or renew a policy on a private home solely on the basis that the policyholder operates a child care facility if the policyholder is registered or certified pursuant to ORS [329A.030 and] 329A.250 to 329A.450.

(2) A homeowner or renter liability or fire insurance policy may not provide coverage for losses arising out of or in connection with child care provided by a registered or certified child care facility. Coverage for losses arising out of or in connection with child care by a registered or certified child care facility may be provided only by a separate policy or indorsement for which premiums are assessed and paid.

(3) As used in this section, "child care facility" has the meaning given in ORS 329A.250.

SECTION 20. ORS 825.017 is amended to read:

825.017. Except as provided in this section and ORS 825.026 and 825.030, this chapter does not apply to the persons or vehicles described in this section. The exemption under this section applies to the following persons and vehicles:

(1) Vehicles being used by, or under contract with, any school board, district or person responsible for the administration of elementary or secondary school activities, and engaged exclusively in transporting students or combinations of students and other persons to or from school, to or from authorized school activities or other activities sponsored by the governing board of a public university listed in ORS 352.002, or for purposes provided under ORS 332.427. This exemption shall not be affected by the charging of a fee to cover the costs of the transportation.

(2) Vehicles being used in a taxicab operation if the vehicle:

(a) Is a passenger vehicle with a passenger seating capacity that does not exceed five;

(b) Carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time; and

(c) Is transporting persons or property, or both, between points in Oregon.

(3) Vehicles being used for the transportation of property by private carrier by means of a single vehicle or combination of vehicles with a combined weight that does not exceed 8,000 pounds.

(4) Vehicles being used in operating implements of husbandry.

(5) Vehicles being used as a hearse or ambulance.

(6) Vehicles being used over any private road or thoroughfare.

(7) Vehicles being used on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005, or the product of forest products converted to a form other than logs at or near the harvesting site, or when used for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of an agency named in this subsection.

(8) Vehicles being used on any county road for the removal of forest products as defined in ORS 321.005, or the products of forest products converted to a form other than logs at or near the harvesting site, if:

(a) The use is pursuant to a written agreement entered into with the State Board of Forestry, the State Forester or an agency of the United States, authorizing the owner of the motor vehicle to use the road and requiring the owner to pay for or to perform the construction or maintenance

of the county road, including any operator of a motor vehicle retained to transport logs, poles and piling for the owners who are exempt under this section;

(b) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of the county road; and

(c) Copies of the agreements or permits required by this subsection are filed with the Director of Transportation.

(9) Vehicles being used in transporting persons with disabilities, with or without their supervisors or assistants, to or from rehabilitation facilities or child care services if the motor vehicle is a passenger motor vehicle with a seating capacity of not more than 12 passengers. The exemption provided by this subsection applies only when the motor vehicle is operated by or under contract with any person responsible for the administration of rehabilitation facilities as defined in ORS 344.710 to 344.730 or child care services provided by a facility licensed under ORS [329A.030 and] 329A.250 to 329A.450.

(10) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except as provided in ORS 825.022. This chapter does apply to vehicles when owned or operated:

(a) As a carrier of property for hire;

(b) By a transportation district organized under ORS 267.510 to 267.650;

(c) By a county service district authorized to provide public transportation under ORS 451.010;

or

(d) By an intergovernmental body formed by two or more public bodies, as defined in ORS 174.109, to provide public transportation.

(11) Vehicles owned or operated by a mass transit district organized under ORS 267.010 to 267.394.

(12) Vehicles owned or operated by, or under contract with, a person responsible for the construction or reconstruction of a highway under contract with the Department of Transportation or with an agency of the United States when operated within the immediate construction project as described in the governmental agency contract during the construction period.

(13) Vehicles owned or operated by, or under contract with, a charitable organization when exclusively engaged in performing transportation, either one way or round trip, necessary to the operation of the charitable organization. As used in this subsection, "charitable organization" means an organization that has no capital stock and no provision for making dividends or profits, but derives its funds principally from public and private charity and holds them in trust for the promotion of the welfare of others and not for profit. Any organization claiming an exemption under this subsection shall file an affidavit with the department stating that it is organized and operated in accordance with the requirements of this subsection.

(14) Passenger vehicles with a passenger seating capacity that does not exceed five when used in the transportation of new telephone books.

(15) A vehicle that is used in a limousine service operation in which the destination and route traveled may be controlled by the passenger and the fare is calculated on the basis of any combination of initial fee, distance traveled and waiting time if the vehicle:

(a) Is a passenger vehicle with a passenger seating capacity that does not exceed eight;

(b) Carries passengers for hire between points in Oregon; and

(c) Operates on an irregular route basis.

(16) Fire trucks and rescue vehicles that are designated as emergency vehicles by the Department of Transportation under ORS 801.260, while involved in emergency and related operations.

(17) A person who provides services related to the packing or loading of household goods if the person does not:

(a) Provide or operate a motor vehicle for the movement of the household goods; and

(b) Act as an agent for any person who does provide or operate a motor vehicle for the movement of the household goods.

SECTION 21. The amendments to ORS 307.480, 315.208, 329A.270, 329A.310, 329A.992, 419B.005, 433.235, 609.652, 742.260 and 825.017 by sections 11 to 20 of this 2022 Act become operative on January 1, 2023.

SECTION 22. ORS 329A.250 is amended to read:

329A.250. As used in ORS 329A.030, [and] 329A.250 to 329A.450 and 329A.500, unless the context requires otherwise:

(1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) "Certification" means the certification that is issued under ORS 329A.280 by the Office of Child Care to a family child care home, child care center or other child care facility.

(3) "Child" means a child under 13 years of age or a child under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child's age.

(4)(a) "Child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation.

(b) "Child care" does not include care provided:

(A) In the home of the child;

(B) By the child's parent, guardian, or person acting in loco parentis;

(C) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(D) On an occasional basis by a person not ordinarily engaged in providing child care;

(E) By providers of medical services;

(F) By a babysitter;

(G) By a person who cares for children from only one family other than the person's own family;

(H) By a person who cares for no more than three children other than the person's own children; or

(I) By a person who is a member of the child's extended family, as determined by the office on a case-by-case basis.

(5) "Child care facility" means any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any:

(a) Preschool recorded program.

(b) Facility providing care for school-age children that is primarily a single enrichment activity, for eight hours or less a week.

(c) Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by:

(A) A school district as defined in ORS 332.002;

(B) A political subdivision of this state; or

(C) A governmental agency.

(e) Residential facility licensed under ORS 443.400 to 443.455.

(f) Babysitters.

(g) Facility operated as a parent cooperative for no more than four hours a day.

(h) Facility providing care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity.

(i) Facility operated as a school-age recorded program.

(6) "Family" has the meaning given that term in ORS 329.145.

(7) "Occasional" means that care is provided for no more than 70 days in any calendar year.

(8) "Parent cooperative" means a child care program in which:

(a) Care is provided by parents on a rotating basis;

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

(d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.

(9) "Preschool recorded program" means a facility providing care for preschool children that is primarily educational for four hours or less per day and where no child is present at the facility for more than four hours per day.

(10) "Record" means the record that is issued under ORS 329A.255 to a preschool recorded program or under ORS 329A.257 to a school-age recorded program.

(11) "Registration" means the registration that is issued under ORS 329A.330 by the Office of Child Care to a family child care home where care is provided in the family living quarters of the provider's home.

(12) "School age" means of an age eligible to be enrolled in kindergarten or above on or before the first day of the current school year.

(13) "School-age recorded program" means a program for school-age children:

(a) That is not operated by a school district as defined in ORS 332.002;

(b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330; and

(c) In which youth development activities are provided to children during hours that school is not in session and does not take the place of a parent's care.

(14)(a) "Subsidized care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of a day, paid for in whole or in part by public funds.

(b) "Subsidized care" does not include care provided:

(A) By the child's parent, guardian or person acting in loco parentis;

(B) By a sibling living in the same home as the child;

(C) By a person on the same subsidized care case of a child in care; or

(D) By a provider of medical services, as determined by the office on a case-by-case basis.

(15) "Subsidized care facility" means any facility that provides subsidized care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any program or facility identified by the Early Learning Council by rule.

[(14)] **(16) "Youth development activities" means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, music lessons, social activities, sports and recreational activities.**

SECTION 23. ORS 329A.250, as amended by section 40, chapter 631, Oregon Laws 2021, is amended to read:

329A.250. As used in ORS 329A.030, *[and]* 329A.250 to 329A.450 **and 329A.500**, unless the context requires otherwise:

(1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) "Certification" means the certification that is issued under ORS 329A.280 by the Office of Child Care to a family child care home, child care center or other child care facility.

(3) "Child" means a child under 13 years of age or a child under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child's age.

(4)(a) "Child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation.

(b) "Child care" does not include care provided:

(A) In the home of the child;

(B) By the child's parent, guardian, or person acting in loco parentis;

(C) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

- (D) On an occasional basis by a person not ordinarily engaged in providing child care;
- (E) By providers of medical services;
- (F) By a babysitter;
- (G) By a person who cares for children from only one family other than the person's own family;
- (H) By a person who cares for no more than three children other than the person's own children; or

(I) By a person who is a member of the child's extended family, as determined by the office on a case-by-case basis.

(5) "Child care facility" means any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any:

- (a) Preschool recorded program.
- (b) Facility providing care for school-age children that is primarily a single enrichment activity, for eight hours or less a week.
- (c) Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- (d) Facility operated by:
 - (A) A school district as defined in ORS 332.002;
 - (B) A political subdivision of this state; or
 - (C) A governmental agency.
- (e) Residential facility licensed under ORS 443.400 to 443.455.
- (f) Babysitters.
- (g) Facility operated as a parent cooperative for no more than four hours a day.
- (h) Facility providing care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity.
- (i) Facility operated as a school-age recorded program.

(6) "Family" has the meaning given that term in ORS 329.155.

(7) "Occasional" means that care is provided for no more than 70 days in any calendar year.

(8) "Parent cooperative" means a child care program in which:

- (a) Care is provided by parents on a rotating basis;
- (b) Membership in the cooperative includes parents;
- (c) There are written policies and procedures; and
- (d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.

(9) "Preschool recorded program" means a facility providing care for preschool children that is primarily educational for four hours or less per day and where no child is present at the facility for more than four hours per day.

(10) "Record" means the record that is issued under ORS 329A.255 to a preschool recorded program or under ORS 329A.257 to a school-age recorded program.

(11) "Registration" means the registration that is issued under ORS 329A.330 by the Office of Child Care to a family child care home where care is provided in the family living quarters of the provider's home.

(12) "School age" means of an age eligible to be enrolled in kindergarten or above on or before the first day of the current school year.

(13) "School-age recorded program" means a program for school-age children:

- (a) That is not operated by a school district as defined in ORS 332.002;
- (b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330; and

(c) In which youth development activities are provided to children during hours that school is not in session and does not take the place of a parent's care.

(14)(a) **“Subsidized care” means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of a day, paid for in whole or in part by public funds.**

(b) **“Subsidized care” does not include care provided:**

(A) **By the child’s parent, guardian or person acting in loco parentis;**

(B) **By a sibling living in the same home as the child;**

(C) **By a person on the same subsidized care case of a child in care; or**

(D) **By a provider of medical services, as determined by the office on a case-by-case basis.**

(15) **“Subsidized care facility” means any facility that provides subsidized care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any program or facility identified by the Early Learning Council by rule.**

[(14)] (16) **“Youth development activities” means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, music lessons, social activities, sports and recreational activities.**

SECTION 24. ORS 329A.500 is amended to read:

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

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

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

(a) Cultural diversity;

(b) Linguistic diversity;

(c) Racial and ethnic diversity; and

(d) Diversity of [*provider*] **subsidized care facility** types.

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

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

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

(B) Any other criteria established by the department.

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

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

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

(c) Payment to [*child care providers*] **subsidized care facilities** must be based on enrollment instead of attendance.

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

(e) **A child care facility is not eligible to be a subsidized care facility and to receive a reimbursement under the subsidy program unless each subject individual described in ORS 329A.030 (10)(d) who operates, resides in or may have unsupervised contact with children at**

the subsidized care facility that provides or will provide subsidized care to the person's child is enrolled in the Central Background Registry under ORS 329A.030.

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

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

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

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

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

SECTION 25. ORS 329A.500, as amended by section 73, chapter 631, Oregon Laws 2021, is amended to read:

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

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

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

- (a) Cultural diversity;
- (b) Linguistic diversity;
- (c) Racial and ethnic diversity; and
- (d) Diversity of [*provider*] **subsidized care facility** types.

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

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

- (A) The household income of a child's family; and
 - (B) Any other criteria established by the council.
- (b) A child must be able to receive care that:

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

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

(c) Payment to [*child care providers*] **subsidized care facilities** must be based on enrollment instead of attendance.

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

(e) **A child care facility is not eligible to be a subsidized care facility and to receive a reimbursement under the subsidy program unless each subject individual described in ORS 329A.030 (10)(d) who operates, resides in or may have unsupervised contact with children at the subsidized care facility that provides or will provide subsidized care to the person's child is enrolled in the Central Background Registry under ORS 329A.030.**

[*e*] (f) A [*child care provider*] **subsidized care facility** may be eligible to receive a higher rate of reimbursement or other financial incentives for:

- (A) Participating in quality improvement measures;
- (B) Providing culturally or linguistically specific or appropriate care;
- (C) Providing evening, overnight or weekend care;
- (D) Providing care to children with a diagnosed disability;
- (E) Providing infant or toddler care;
- (F) Providing care to a population that has been identified as historically having an inadequate child care [*provider*] **facility** supply; or

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

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

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

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

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

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

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

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

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

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

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

SECTION 26. ORS 329A.030 is amended to read:

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

[(2)(a) A subject individual shall apply to and must be enrolled in the Central Background Registry as part of the individual's application to operate a program or serve in a position described in subsection (10) of this section.]

(2)(a) A subject individual described in subsection (10)(a), (c) or (d) of this section shall apply to and must be enrolled in the Central Background Registry prior to the provision of care.

(b) An individual who has been the subject of a founded or substantiated report of child abuse shall apply to and **must** be enrolled in the Central Background Registry prior to providing any of the types of care identified in ORS 329A.250 (4)(b)(A), (G) or (H) if:

(A) The child abuse occurred on or after January 1, 2017, and involved a child who died or suffered serious physical injury, as defined in ORS 161.015; or

(B) The child abuse occurred on or after September 1, 2019, and involved any child for whom the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS 329A.250 (4)(b)(A), (C), (F), (G), (H) or (I).

(c) Notwithstanding paragraph (a) of this subsection, an individual described in paragraph (b)(B) of this subsection is not required to enroll in the Central Background Registry if more than seven years has elapsed since the date of the child abuse determination.

(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:

(A) A criminal records check under ORS 181A.195;

(B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;

(C) A child abuse and neglect records check in accordance with rules adopted by the council; and

(D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that the office, by rule, determines is relevant to enrollment in the Central Background Registry.

(4)[(a)] The office shall enroll the individual in the Central Background Registry if the individual:

[(A)] (a) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history, or to have dealt with the issues and provided adequate evidence of suitability for the registry;

[(B)] (b) Has paid the applicable fee established pursuant to ORS 329A.275; and

[(C)] (c) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

[(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office may enroll an individual in the registry if the Department of Human Services has completed a background check on the individual and the individual has received approval from the department for purposes of providing child care.]

(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an individual in the Central Background Registry if:

(A) The individual has a disqualifying condition as defined in rules adopted by the council; or

(B) The individual is an exempt prohibited individual, as provided by ORS 329A.252.

(b) If an individual prohibited from enrolling in the registry as provided by this subsection is enrolled in the registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has successfully completed the criminal records check and the child abuse and neglect records check in this state and in the state of the individual's residence, if other than Oregon.

(b) The office may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) An enrollment in the Central Background Registry may be renewed upon application to the office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council pursuant to this section. However, an individual who is determined

to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed or suspended from the registry by the office.

(8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Central Background Registry.

(b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a probationary basis an individual who is conditionally enrolled in the Central Background Registry.

(9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this section, including but not limited to rules regarding expiration and renewal periods and limitations related to the subject individual's enrollment in the Central Background Registry.

(10) [For purposes of] **As used in** this section, "subject individual" means:

(a) A subject individual as defined by the Early Learning Council by rule[.];

(b) An individual subject to subsection (2)(b) of this section [or];

(c) A person who applies to be:

[(a)] (A) The operator or an employee of a child care or treatment program;

[(b)] (B) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to 329.200;

[(c)] (C) The operator or an employee of a federal Head Start program regulated by the United States Department of Health and Human Services;

[(d)] (D) An individual in a child care facility who may have unsupervised contact with children [as identified by the office], **as determined by the council by rule**;

[(e)] (E) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534;

[(f)] (F) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;

[(g)] (G) A contractor, employee or volunteer of a metropolitan service district organized under ORS chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;

[(h)] (H) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services; or

[(i)] (I) The operator or an employee of an early learning program as defined in rules adopted by the council[.]; **or**

(d)(A) An individual who operates a subsidized care facility;

(B) An individual who has attained 18 years of age and resides in a subsidized care facility; or

(C) An individual in a subsidized care facility who has attained 18 years of age and who may have unsupervised contact with children, as determined by the council by rule.

(11)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection [(10)(g)] **(10)(c)(G)** of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection [(10)(h)] **(10)(c)(H)** of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(c) Information provided to a private agency or organization about the enrollment status of the persons described in subsection [(10)(i)] **(10)(c)(I)** of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

SECTION 27. ORS 329A.992 is amended to read:

329A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may:

(a) Suspend or revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

(A) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;

(B) The terms and conditions of a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450; or

(C) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to 329A.450.

(b) Impose a civil penalty in the manner provided in ORS 183.745 and file for injunctive relief in a circuit court for the provision of child care, or for having a child in an individual's care, in violation of ORS 329A.030 (2).

(c) Remove an individual described in ORS 329A.030 (10)(d) from the Central Background Registry, or impose a civil penalty in the manner provided in ORS 183.745, for the individual's or the subsidized care facility's violation of:

(A) Any of the provisions of ORS 329A.030 or 329A.500; or

(B) Any rule of the Early Learning Council adopted under ORS 329A.030, 329A.500 or 329A.505 or of the Department of Human Services adopted under ORS 329A.500.

(2) The Early Learning Council may adopt by rule a schedule establishing the civil penalties that may be imposed under this section.

(3) Except as provided in subsection (4) of this section, penalties imposed under this section may not exceed:

(a) \$750 per violation for a registered family child care home.

(b) \$1,200 per violation for a certified family child care home.

(c) \$2,500 per violation for a certified child care center that is not a family child care home.

(4) The office may impose a civil penalty of not more than \$1,500 for a child care facility that provides child care without a valid:

(a) Certification, in violation of ORS 329A.280; or

(b) Registration, in violation of ORS 329A.330.

(5) Each day that a child care facility is operating in violation of any of the provisions described in subsection (1) of this section is a separate violation.

(6) The office may revoke a child care facility's certification or registration or deny a child care facility's renewal application for a certification or registration if the facility fails to pay a civil penalty after the order imposing the penalty becomes final.

(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the office considers proper and consistent with the public health and safety.

(8) All moneys received under this section shall be paid into the State Treasury and credited to the General Fund.

SECTION 28. (1)(a) **The amendments to ORS 329A.030, 329A.250, 329A.500 and 329A.992 by sections 22 to 27 of this 2022 Act apply to subsidized care facilities providing subsidized care under ORS 329A.500 on or after July 1, 2023.**

(b) On or after July 1, 2023, a subject individual described in ORS 329A.030 (10)(d) must enroll in the Central Background Registry under ORS 329A.030 for the purpose of the Employment Related Day Care subsidy program.

(2) Notwithstanding subsection (1) of this section and ORS 329A.030 (2)(a), as amended by section 26 of this 2022 Act:

(a) A subject individual described in ORS 329A.030 (10)(d) who was approved before July 1, 2023, as a provider of care by the Department of Human Services for the purposes of the Employment Related Day Care subsidy program is not required to enroll in the Central Background Registry until the earlier of the expiration of a child care background check or June 30, 2025.

(b) Until July 1, 2023, a subject individual described in ORS 329A.030 (10)(d) who is seeking initial approval or renewed approval as a provider of care for purposes of the Employment Related Day Care subsidy program may choose to enroll in the Central Background Registry under ORS 329A.030 or may seek a child background check through the Department of Human Services.

(3) For the purpose of transferring the Employment Related Day Care subsidy program from the Department of Human Services to the Department of Early Learning and Care, as provided by section 79, chapter 631, Oregon Laws 2021, the Department of Human Services and the Early Learning Council shall adopt rules that provide:

(a) Until July 1, 2023, the Department of Human Services shall accept an individual's enrollment in the Central Background Registry as satisfying any requirement for background checks for the Employment Related Day Care subsidy program.

(b) Until July 1, 2025, the Office of Child Care shall accept the Department of Human Service's background check of an individual for the purposes of the Employment Related Day Care subsidy program as satisfying the requirements of the Central Background Registry.

(4) No later than July 1, 2023, the Department of Human Services shall transfer copies of all files necessary for the Office of Child Care to provide background checks for individuals described in ORS 329A.030 (10)(d).

SECTION 28a. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Education by section 1 (1), chapter 603, Oregon Laws 2021, for the biennium ending June 30, 2023, for operations, is increased by \$1,170,074, for purposes of section 28 of this 2022 Act and ORS 329A.030, 329A.250, 329A.500 and 329A.992, as amended by sections 22 to 27 of this 2022 Act.

USE OF EARLY LEARNING ACCOUNT MONEYS

SECTION 29. ORS 327.274 is amended to read:

327.274. (1) The Department of Education and the Early Learning Division shall use moneys in the Early Learning Account to provide funding for early learning programs in a manner consistent with a statewide early learning system plan overseen by the Early Learning Council. Early learning programs that may receive moneys from the Early Learning Account include:

- (a) Early childhood special education or early intervention services, as provided by ORS 343.475;
- (b) Relief nurseries;
- (c) Programs funded by the Early Childhood Equity Fund;
- (d) The Oregon prekindergarten program and other public preschool programs established under ORS 329.170 to 329.200, by increasing:
 - (A) The total number of spaces for children served by the programs; or
 - (B) Existing spaces for full-day programs from half-day programs;
- (e) Professional development for early childhood educators; and
- (f) Early Head Start programs.

(2) In addition to the uses identified in subsection (1) of this section, moneys in the Early Learning Account may be used for:

- (a) Staffing needs of the Early Learning Division for the purpose of implementing this section.
- (b) **Costs incurred by the division in conducting the biennial evaluation of programs that receive grants under ORS 417.782.**

(3) The State Board of Education and the Early Learning Council shall adopt rules necessary for the distribution of moneys under this section.

SECTION 30. ORS 327.274, as amended by section 21, chapter 631, Oregon Laws 2021, is amended to read:

327.274. (1) The Department of Early Learning and Care shall use moneys in the Early Learning Account to provide funding for early learning programs in a manner consistent with a statewide early learning system plan overseen by the Early Learning Council. Early learning programs that may receive moneys from the Early Learning Account include:

(a) Early childhood special education or early intervention services, as provided by ORS 343.475;

(b) Relief nurseries;

(c) Programs funded by the Early Childhood Equity Fund;

(d) The Oregon prekindergarten program and other public preschool programs established under ORS 329.170 to 329.200, by increasing:

(A) The total number of spaces for children served by the programs; or

(B) Existing spaces for full-day programs from half-day programs;

(e) Professional development for early childhood educators; and

(f) Early Head Start programs.

(2) In addition to the uses identified in subsection (1) of this section, moneys in the Early Learning Account may be used for:

(a) Staffing needs of the Department of Early Learning and Care for the purpose of implementing this section.

(b) Costs incurred by the department in conducting the biennial evaluation of programs that receive grants under ORS 417.782.

(3) The Early Learning Council shall adopt rules necessary for the distribution of moneys under this section.

REIMBURSEMENT RATE FOR EMPLOYMENT RELATED DAY CARE

SECTION 31. (1) No later than June 1, 2022, the Department of Human Services shall adopt rules to provide reimbursement rates under the Employment Related Day Care subsidy program, operated as provided by ORS 329A.500, that are at least:

(a) For child care provided in a certified or registered family child care home or in a certified child care center, the 90th percentile of the 2020 Oregon Child Care Market Price Study rate.

(b) For child care provided by an exempt child care center that is enhanced, 85 percent of the rate that applies to child care provided in a certified child care center.

(c) For child care provided by an exempt child care center that is not enhanced, 75 percent of the rate that applies to child care provided in a certified child care center.

(d) For an exempt family child care home, regardless of enhanced or not enhanced, an 18 percent increase to the rates for those providers, as calculated based on the Department of Human Services maximum rates in effect on January 1, 2022.

(2) As used in this section:

(a) "Enhanced" means a child care provider that meets training requirements prescribed by the Department of Human Services by rule.

(b) "Exempt" means a child care provider or center that is exempt from certification by the Office of Child Care under rules adopted by the Early Learning Council.

SECTION 32. Section 31 of this 2022 Act is repealed on June 30, 2023.

SECTION 32a. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (3), chapter 606, Oregon Laws 2021, for the biennium ending June 30, 2023, for self-sufficiency programs, is increased by \$26,601,216 to implement the requirements of section 31 of this 2022 Act.

CAPTIONS

SECTION 33. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

EFFECTIVE DATE

SECTION 34. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by House February 28, 2022

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate March 2, 2022

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2022

Approved:

.....M,....., 2022

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2022

.....
Shemia Fagan, Secretary of State