

# House Bill 3073 Fiscal Impact Report to the Interim Committees of the Legislative Assembly

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OREGON DEPARTMENT OF HUMAN SERVICES IN  
COLLABORATION WITH EARLY LEARNING DIVISION

JANUARY 15, 2022



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## Executive summary

House Bill 3073 (2021) directs the transfer of the Employment Related Day Care (ERDC) program, which is currently housed in Oregon Department of Human Services (ODHS), to Department of Early Learning and Care (DELCO). ERDC is a childcare subsidy program, providing low-income families with access to stable, quality childcare. The program helps parents maintain stable employment on their path to self-sufficiency and allows children to access high-quality early care and education programs.

The legislation directs Oregon Department of Human Services (ODHS), in collaboration with Early Learning Division (ELD), to report to the appropriate interim committees to address the timelines and fiscal impact of eligibility requirements as provided by amendments to ORS 329A.500 by section 73 of the 2021 Act. The Early Learning Division (ELD) set the policy direction for the eligibility policy pricing. In addition, ELD requested ODHS provide additional pricing for other policies or information technology changes that may be considered for implementation.

### Fiscal impact summary table

Policy Change	Program Fiscal Impact/Biennium	IT Fiscal Impact (Total Fund)
Expanded student coverage	\$111,789,600 to 147,576,000.	\$204,692
Children who are undocumented	\$12,880,358	\$254,054
12-month eligibility	\$86,988,164 to \$118,332,760	\$1,201,273
Parent availability	\$3,231,358	\$230,547
Children in foster care	\$15,747,789 to \$27,280,028	\$255,516
Provider incentives	Unable to price at this time	\$991,880

In addition to the ERDC policy changes discussed in this report, ODHS has implemented an increase to the income level for ERDC eligibility from 185% of the Federal Poverty Level (FPL) to 200% FPL. This increase will be effective, January 1, 2022. This change is expected to increase access to the program and improve alignment and consistency with other benefits which simplifies the eligibility process for families.

## Background

### Overview

House Bill 3073 (2021) increases access to affordable, high-quality learning experiences and supports for children and families by establishing a new early learning agency. The new agency, the Department of Early Learning and Care (DELIC), will consolidate early learning and childcare services into one state agency, including licensing, registration and the distribution of state and federal childcare funds. Most of these key functions currently exist in the Early Learning Division (ELD), which is part of the Oregon Department of Education.

One of the childcare assistance programs that will be moving into the new agency is the Employment Related Day Care (ERDC) program. ERDC is currently housed in Oregon Department of Human Services (ODHS). ERDC is a childcare subsidy program, providing low-income families with access to stable, quality childcare. The program helps parents maintain stable employment on their path to self-sufficiency and allows children to access high-quality early care and education programs. Section 73 of the legislation also establishes additional eligibility and subsidy policies for ERDC to expand access and flexibility for families and providers across the state by July 1, 2023 considering the availability of funds. The consolidation of childcare services will create a childcare and early learning system that is more responsive to children, families and providers.

### Reporting requirements

HB 3073 (2021), requires ODHS, in collaboration with ELD, to report to the appropriate interim committees to address the timelines and fiscal impact of the eligibility requirements as provided by the amendments to ORS 329A.500 by section 73 of the 2021 Act. The purpose of the report is for ODHS to determine associated costs and implementation timelines to assist ELD in determining DELIC ERDC budget needs based on future policy intent.

## Analysis

### Current State Report

ODHS in partnership with ELD conducted an ERDC Current State Assessment in early 2021. This summary of the ERDC program provides an overview of the program's services and the operations, governance, systems and budget that are required to deliver services to families and childcare providers across Oregon. Leadership from ODHS and ELD have utilized this assessment to inform planning and work together to transition ERDC to DELIC. The teams have and will leverage this document to support design decisions and implementation work.

The information in the report was gathered through the collaborative effort of several working groups, made up of representative staff with working knowledge of ERDC. They included staff from ODHS and the many teams that support ERDC across the agency. In

addition, the summary includes data gathered from ODHS reporting systems. The summary is intended to be high level. It is not intended to be an evaluative assessment, though some opportunities for improvement were identified by working groups and were captured.

The document is organized around the experience of families and providers and the services that support their use of the ERDC program. Each section includes details about the staff needed to support ERDC and notes on Transition Considerations – topics for further review and investigation by ODHS and ELD leadership. Transition considerations are explained, prioritized and include an initial view of their potential complexity. These transition considerations have guided transition work to date and informed assumptions and decisions.

The complete report can be found here:

<https://oregonearlylearning.com/wp-content/uploads/2021/09/ERDC-Current-State-Report - FINAL-09132021.pdf>

#### Policy and program fiscal impact

Proposed policy changes in the 2021 Act would have two areas of fiscal impact that are separate from the IT implementation costs. Some policy changes expand the eligibility criteria allowing new families to qualify for benefits who would not have qualified prior. This may require increasing the caseload size to accommodate newly eligible families without imposing a reservation list. Other policies impact the amount of the childcare payment issued to a provider. This could occur by increasing payment rates or the number of hours that a family can use, therefore causing an increase to the cost per case.

ERDC program subsidy costs =  
caseload x cost per case

Pricing has been completed for each individual policy change that can be priced at this time. The pricing, and assumptions developed by ELD and ODHS, are captured in the table below.

Further analysis is required to determine how each policy change will interact with another. Section 73 of the Act includes six major policy changes that will either impact caseload size, cost per case or both. ELD shared, with ODHS, the policies that they wanted priced and set the policy direction for the pricing.

#### Summary of program pricing assumptions

- Current cases: 8,987
- Current cost per case: \$1,300/month
- Average family size: 2.9 people (one caretaker and 1.9 children – fluctuations impact cost per case)

Policy pricing, impact and assumptions – Section 73 eligibility amendments

Policy change	Program impact and assumptions	Program fiscal impact (biennium)
<p><b>Expanded student coverage</b> Section 73(4)(b)(B)</p> <p><b>Child and family impact</b> A child will receive care so that their family can complete activities that relate to family well-being, such as work hours, education, commute time and study time</p>	<ul style="list-style-type: none"> <li>Removes the work requirement connected to childcare hours for students</li> <li>Allows unemployed students to qualify for childcare</li> <li>Allows full-time students with minimal work hours to qualify for full coverage of their student and work hours</li> <li>Allows full-time employees to add extra childcare hours to cover childcare during their schooling</li> <li>Increases cost per case</li> </ul>	<p><b>\$111,789,600 to \$147,576,000</b></p>
<p><b>Expand coverage for children who are undocumented</b> Section 73(5)(b)(A) part 1</p> <p><b>Child and family impact</b> Families with children who are undocumented will have more access to childcare</p>	<ul style="list-style-type: none"> <li>Increases cost per case by providing coverage for undocumented siblings of currently covered children in ERDC</li> <li>Increases caseload by expanding coverage to all children who are undocumented</li> <li>Pricing included a 3% increase to the ERDC caseload based on US census data</li> <li>Not allowable under current federal funding sources and will require state General Fund</li> <li>IT and system changes needed to allow separate tracking of children</li> </ul>	<p><b>\$12,880,358</b></p>
<p><b>12-month eligibility</b> Section 73(5)(b)(A) part 2</p> <p><b>Child and family impact</b> Families will experience childcare consistency throughout employment changes, provider changes and hardship, which will improve family well-being</p>	<ul style="list-style-type: none"> <li>Removes most eligibility closure reasons that exist today, moving towards CCDF goal of protected eligibility</li> <li>By reducing turnover, will increase caseload and require one year for the</li> </ul>	<p><b>\$86,088,164 to \$118,332,760</b></p>

	<p>caseload to rise to expected plateau levels</p> <ul style="list-style-type: none"> <li>• May decrease cost per case as this is determined by the average of all payments for all open cases. It is expected that some families may not utilize benefits during the expanded eligibility period, therefore decreasing the average payment</li> <li>• These policy changes assume some time for uptake to occur</li> <li>• Estimates capture ranges based on how many cases are assumed idle compared to current usage</li> </ul>	
<p><b>Parent availability to attend to a child</b> Section 73(5)(c)</p> <p><b>Child and family impact</b> Improves child and family well-being by increasing flexibility within childcare to support work and education</p>	<ul style="list-style-type: none"> <li>• Includes coverage of childcare when the parent is home but otherwise unable to attend to their child, for example, if the parent needs to sleep because they are working a swing shift</li> <li>• Expands policy to cover sleep hours for two parent households and study time for students</li> <li>• Sets the minimum number of hours that can be authorized on an ERDC to 108 hours per month (25 hours a week)</li> </ul>	<p><b>\$3,231,358</b></p>
<p><b>Childcare for children in foster care</b> (additional pricing request from ELD)</p> <p><b>Child and family impact</b> Supports foster parents in work and school activities, increases access to childcare for children in foster care and positively impacts recruitment and retention of foster parents</p>	<ul style="list-style-type: none"> <li>• Eliminates the income limit for foster parents by establishing categorical eligibility</li> <li>• Waives the copay for foster parents.</li> <li>• ODHS priced out the base level of utilization to be 24% of all foster parents accessing benefits for their foster children; this is the current utilization level of a childcare reimbursement program currently run within Child Welfare</li> <li>• The high-end estimate is assuming a 46% utilization rate among foster parents</li> </ul>	<p><b>\$15,747,789 to \$27,280,028</b> (dependent on utilization)</p>

Policy pricing not completed – further information and policy development required

ELD advised that ODHS not complete pricing for the following policy changes based on the process of determining the alternative rate methodology, which ELD will present to the legislature by December 31, 2022, as required by Section 10 in HB 3073.

Policy Change	
<p><b>Provider payment incentives</b> Section 73(4)(e) Subsections A-E and G</p> <p><b>Child and family impact</b> Children and families will experience increased access, provider choice and childcare flexibility</p>	<ul style="list-style-type: none"> <li>• Subsection A. allows incentive payment for providers participating in quality improvement measures - this is current practice and allowable</li> <li>• Subsection D. Incentive payment for providing care for a child with a diagnosed disability – this is current practice and allowable</li> <li>• Subsections B, C, E and G (culturally specific, evening &amp; weekend hours, infant &amp; toddler care, and any other specialized care) would require additional funding, IT changes and potentially a new attendance tracking and billing system</li> <li>• Pricing is dependent on future rate methodology</li> </ul>
<p><b>Provider incentive for historically inadequate provider supply</b> Section 73(4)(e)(F)</p> <p><b>Child and family impact</b> Children and families within underserved populations will experience increased access to care</p>	<ul style="list-style-type: none"> <li>• Creates financial incentives to childcare providers who are providing care to populations identified as historically having an inadequate supply of care</li> <li>• Increases cost per case by increasing payment to providers</li> <li>• Payment increase is dependent on how populations are identified and dollar amount and structure of incentives, which have not yet been determined</li> </ul>

Policy implementation timelines

One of the primary drivers of the timeline for policy changes is the process to write or amend Oregon Administrative Rules. This is a 3 to 6-month process. The rules for these policy changes will require additional time due to being vetted through the Early Learning Council, a step that does not currently exist in the ODHS rule making process. The Early Learning Council is, per ORS 326.425, the rulemaking body of ELD. ELD’s estimate of a minimum amount of time needed to adopt rule language, including robust engagement of impacted childcare providers, is 8 months. Based on this, ODHS anticipates the rule making process to be 8-11 months.

Staff training, updating manuals, publications (including translations) and websites are additional requirements to implementing new policies. Rule language and system design must be finalized before training materials and messaging can be created. It is assumed an 8 to fourteen-month window, or longer, may be required to implement changes and roll out training materials statewide. The amount of time will be directly impacted by the complexity and number of policy changes implemented at any given time, pending approval by the federal Office of Child Care and required amendments to Oregon’s CCDF State Plan. Program and policy implementation will need to be closely coordinated across agencies. The policy implementation timeline will be dependent on IT projected timelines and constraints described below.

#### Information technology fiscal impact and implementation timelines

ODHS and OHA partnered with ELD to develop assumptions for Information Technology (IT) related changes and modifications required to implement eligibility amendments proposed in the 2021 Act. ERDC policy changes impact the Oregon Eligibility (ONE) system, Legacy systems and more. Assumptions may go up or down as actual requirements and policies are developed, therefore impacting pricing. In addition, implementation timelines may be impacted by changing and competing statewide priorities across state agencies, state legislative actions or federal changes related to the enactment of bills or the ending of the public health State of Emergency. This funding analysis did not include additional policy training or staffing assumptions within any of the involved agencies.

Policy change	Estimated total hours	Fiscal impact (Total Fund)
Expanded student coverage	1,121	\$204,692
Provider incentives	5,474	\$991,880
Children who are undocumented	1,502	\$254,054
12-month eligibility	9,575	\$1,201,273
Parent availability	1,408	\$230,547
<b>Additional pricing - requested by ELD</b>		
Children in foster care	1,834	\$255,516

#### Implementation constraints

- ERDC eligibility policy changes require legislative prioritization and funding to ensure external contract capacity and internal ODHS – ONE and Legacy System resources
- Agencies may need additional time beyond July 1, 2023, with legislative approval, to fully implement all ERDC policy changes which include ONE Eligibility system changes, changes to provider payment systems, updates to trainings and communication to providers and staff.

- Policy changes required by HB 3073 must be submitted to the ONE Eligibility and Legacy Systems governance structures for project prioritization based on current statewide project priorities
- Policy changes require subject matter expertise, within both DELC/ELD and ODHS, to ensure successful implementation

## Prioritizing families who are on Temporary Assistance for Needy Families

The 2021 Act specifies the need to prioritize the childcare needs of families who are receiving Temporary Assistance for Needy Families (TANF) benefits and services.

Families experiencing deep poverty have unique childcare needs that require focused and equitable policy solutions and investments. Affordable, flexible, and stable childcare that is culturally responsive and community-based can function as a protective factor against the negative effects of poverty for the entire family. As the ERDC program transitions to DELC and opportunities for improvement are considered, centering the needs of low-income families, particularly families of color, should be prioritized.

The TANF program provides cash benefits and other services to low-income families with children. These benefits help meet a family's basic needs like food, clothing, rent and utilities. Families participating in the TANF program represent some of the most vulnerable in the state. Historically, the ERDC program has been used as a means of continuing support to families in their transition off the TANF program once employment has been obtained and the family is no longer in need of monthly cash benefits. Providing childcare support within the confines of current ERDC program design, means that families in poverty lack needed supports to gain education and skills, find quality jobs, meet their families' basic needs, transition off cash benefits and to keep their children safely cared for throughout that process.

Additionally, persons of color and indigenous populations are disproportionately represented on the TANF program. In 2019, Black and African American persons represented 2.2% of Oregon's population and 8% of the families on TANF<sup>1</sup>. Without access to affordable, culturally responsive and community-based childcare options, communities of color will continue to be excluded from workforce and economic opportunities. For example, studies have shown that Black families disproportionately work non-traditional hours and require a childcare provider who is able to accommodate variable schedules<sup>2</sup>. From a policy perspective, the ERDC program has struggled to

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<sup>1</sup> United State Census Bureau (n.d.). *State of Oregon Quick Facts*. <https://www.census.gov/quickfacts/OR>

<sup>2</sup> Zero to Three (2021). *Places for All Babies: Home-Based Child Care is an Essential Part of the Solution*. <https://www.zerotothree.org/resources/4234-places-for-all-babies-home-based-child-care-is-an-essential-part-of-the-solution>

provide such accommodations and, more importantly, most traditional regulated childcare providers operate only during normal business hours.

The recommendations outlined below would increase economic mobility opportunities for families on TANF and tailor policy interventions to the needs of communities of color.

### Recommendations for the prioritization of families on TANF

#### **1. Focus on the childcare needs of families on the TANF program in ERDC policy and design**

Without access and choice of affordable, flexible and stable child care, families in deep poverty (families on TANF fall below 35% of the FPL for a family of three) face insurmountable barriers to achieving economic stability. Families on the TANF program have some of the lowest incomes and face some of the highest barriers in the state and centering the needs of these households requires deep and meaningful family and community engagement in policy and program design.

#### **2. Decouple TANF participants' ability to access ERDC childcare from employment status and participation in JOBS program**

Many families on TANF who come onto ERDC work in the low-wage labor market, which is characterized by high income volatility and job turnover<sup>3</sup>. Unreliable employment is a distinct reality for these households and presents many issues to the continuity of childcare, which can have negative impacts on children. In order to preserve childcare for TANF families experiencing job volatility, eligibility for ERDC should not be predicated on employment, which is allowable by CCDF.

#### **3. Increase flexibility in choosing providers that meet the family's needs as they define them, regardless of licensing status. Consider options that allow families the greatest possible self-determination in selecting their provider**

Families choose Family, Friend, and Neighbor (FFN) care for many reasons such as existing bonds, shared language and culture, non-traditional care hours, and lower cost. FFN care provides an important option to families in a mixed delivery childcare system, particularly for families of color, immigrant families, and families living in

“Additionally, as family child care and Family, Friend and Neighbor are operated out of homes, in the communities in which providers reside, they often share the culture and language of the children and families they serve. This means many children also benefit from a learning environment that supports their home language” (Hill, 2021).

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<sup>3</sup> Center for Budget and Policy Priorities (2020). *Parents Leaving TANF Work, But in Low-Paying, Unstable Jobs, Recent Studies Find*. <https://www.cbpp.org/research/family-income-support/most-parents-leaving-tanf-work-but-in-low-paying-unstable-jobs>

rural areas. DELC must continue prioritizing family choice to utilize providers that meet their needs as they define them.

## Conclusion

ODHS is committed to providing information pertaining to ERDC policy, program and costs to ensure the state of Oregon and DELC are successful in advancing the early learning system and equitably meeting the childcare needs of families. ODHS is working to center the needs of families in poverty and communities of color to move us toward a more equitable childcare system. Our goal is to serve whole families, and we know that investments in childcare are a critical component of family well-being.

We will continue to work with ELD to plan and prepare for the successful transfer of the ERDC program, to DELC, and partner on strategies to meet the needs of all children and families. ODHS is working with ELD to determine costs associated with the transfer of ERDC, identify ongoing support functions that ODHS may provide DELC and develop interagency agreements which are included in ELD's legislatively required report.