

CHAPTER 624

AN ACT

HB 3234

Relating to children; creating new provisions; amending ORS 131A.360, 131A.365, 307.145, 307.490, 307.500, 315.204, 315.208, 315.213, 326.021, 326.604, 329.075, 329.156, 329.165, 329.170, 329.175, 329.183, 329.185, 329.190, 329.195, 329.200, 343.499, 343.507, 417.787, 417.788, 417.790, 417.793, 417.795, 418.975, 419B.005, 419B.020, 419B.035, 458.525, 609.652, 646A.504, 657A.010, 657A.020, 657A.030, 657A.180, 657A.190, 657A.250, 657A.252, 657A.255, 657A.257, 657A.260, 657A.263, 657A.270, 657A.275, 657A.280, 657A.290, 657A.300, 657A.310, 657A.330, 657A.350, 657A.360, 657A.370, 657A.390, 657A.400, 657A.410, 657A.420, 657A.450, 657A.490, 657A.700, 657A.703, 657A.706, 657A.709, 657A.712, 657A.715, 657A.718 and 657A.992 and section 10, chapter 519, Oregon Laws 2011, and sections 10, 68b, 104 and 130, chapter 37, Oregon Laws 2012; and declaring an emergency.

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

THE EARLY LEARNING DIVISION

SECTION 1. (1) The Early Learning Division is established in the Department of Education. The purpose of the division is to ensure that children enter school ready to succeed.

(2) The division shall function under the direction and control of the Early Learning Council with the Early Learning System Director serving as the administrative officer.

SECTION 1a. The duties, functions and powers of the Early Learning Council relating to the administration and enforcement of the Early Learning Council are imposed upon, transferred to and vested in the Early Learning Division of the Department of Education for the purpose of fulfilling the duties, powers and functions of the Early Learning Division.

SECTION 1b. (1) The Early Learning System Director shall:

(a) Deliver to the Department of Education all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 1a of this 2013 Act; and

(b) Transfer to the Department of Education those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 1a of this 2013 Act.

(2) The Superintendent of Public Instruction shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 1a of

this 2013 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Governor shall resolve any dispute between the Early Learning Council and the Department of Education relating to transfers of records, property and employees under this section, and the Governor's decision is final.

SECTION 1c. (1) The unexpended balances of amounts authorized to be expended by the Early Learning Council for the biennium beginning July 1, 2013, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 1a of this 2013 Act are transferred to and are available for expenditure by the Department of Education for the biennium beginning July 1, 2013, for the purpose of administering and enforcing the duties, functions and powers transferred by section 1a of this 2013 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Early Learning Council remain applicable to expenditures by the Department of Education under this section.

SECTION 1d. The transfer of duties, functions and powers to the Department of Education by section 1a of this 2013 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Department of Education is substituted for the Early Learning Council in the action, proceeding or prosecution.

SECTION 1e. (1) Nothing in sections 1a to 1d of this 2013 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 1a of this 2013 Act. The Department of Education may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Early Learning Council legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 1a of this 2013 Act accruing under or with respect to the duties, functions and powers transferred by section 1a of this 2013 Act are transferred to the Department of Education. For the purpose of succession to these rights and obligations, the Department of Education is a continuation of the Early Learning Council and not a new authority.

SECTION 1f. Notwithstanding the transfer of duties, functions and powers by section 1a of this 2013 Act, the rules of the Early Learning Council with respect to such duties, functions or powers that are in effect on the operative date of section 1a of this 2013 Act continue in effect until superseded or repealed by rules of the Department of Education.

SECTION 1g. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 1a of this 2013 Act, reference is made to the administration of the Early Learning Council, or an officer or employee of the Early Learning Council, whose duties, functions or powers are transferred by section 1a of this 2013 Act, the reference is considered to be a reference to the Department of Education or an officer or employee of the Department of Education who by this 2013 Act is charged with carrying out such duties, functions and powers.

SECTION 2. ORS 329.075 is amended to read:

329.075. (1) The State Board of Education shall adopt rules, in accordance with ORS 183.750 and ORS chapter 183, as necessary for the statewide implementation of this chapter. The rules shall be prepared in consultation with appropriate representatives from the educational and business and labor communities.

(2) The Department of Education shall be responsible for implementing the provisions of this chapter. Actions by the department to fulfill this responsibility and to increase student achievement may include, but are not limited to:

(a) Developing academic content standards;

(b) Updating Common Curriculum Goals to meet rigorous academic content standards and updating performance indicators and diploma requirements;

(c) Developing criterion-referenced assessments including performance-based, content-based and other assessment mechanisms to test knowledge and skills and whether students meet the performance expectations as determined by the board; and

(d) Establishing criteria for early childhood education programs **governed by the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.**

(3) The department shall make school districts and the public aware of public school choice options available within our current public education framework.

SECTION 3. ORS 329.165 is amended to read:

329.165. (1) In consultation with the advisory committee for the Oregon prekindergarten program, *[the Department of Education]* **the Early Learning Council, acting as the state advisory council for purposes of the federal Head Start Act,** shall develop a long-range plan for serving eligible children and their families and shall report to each odd-

numbered year regular session of the Legislative Assembly on the funds necessary to implement the long-range plan, including but not limited to regular programming costs, salary enhancements and program improvement grants. The *[department]* **council** shall determine the rate of increase in funding for programs necessary each biennium to provide service to all children eligible for the prekindergarten program.

(2) Each biennial report shall include but not be limited to estimates of the number of eligible children and families to be served, projected cost of programs and evaluation of the programs.

SECTION 4. ORS 329.170 is amended to read:

329.170. (1) As used in ORS 329.170 to 329.200:

(a) "Advisory committee" means the advisory committee established specifically for the Oregon prekindergarten program established by ORS 329.170 to 329.200.

(b) "Oregon prekindergartens" means programs that are recognized by the *[department]* **Early Learning Division** as meeting the minimum program rules to be adopted by the *[State Board of Education]* **Early Learning Council** and that provide comprehensive health, education and social services in order to maximize the potential of children three and four years of age.

(c) "Oregon prekindergarten program" means the statewide administrative activities carried on within the *[Department of Education]* **Early Learning Division** to allocate, award and monitor state funds appropriated to create or assist local Oregon prekindergartens.

(2) For purposes of ORS 329.175, "eligible child" means an at-risk child who is not a participant in a federal, state or local program providing like comprehensive services and may include children who are eligible under rules adopted by the *[State Board of Education]* **Early Learning Council**. As used in this subsection, "at-risk child" means a child at least three years of age and not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal Head Start program.

SECTION 5. ORS 329.175 is amended to read:

329.175. (1) The *[Department of Education]* **Early Learning Division** shall administer the Oregon prekindergarten program to assist eligible children with comprehensive services including educational, social, health and nutritional development to enhance their chances for success in school and life. Eligible children, upon request of parent or guardian, shall be admitted to approved Oregon prekindergartens to the extent that the Legislative Assembly provides funds.

(2) Nonsectarian organizations including school districts and Head Start grantees are eligible to compete for funds to establish an Oregon prekindergarten. Grant recipients shall serve children eligible according to federal Head Start guidelines and other children who meet criteria of eligibility adopted by rule by the *[State Board of*

Education] **Early Learning Council.** However, not more than 20 percent of the total enrollment shall consist of children who do not meet Head Start guidelines. School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the program. Funds appropriated for the program shall be used to establish and maintain new or expanded Oregon prekindergartens and shall not be used to supplant federally supported Head Start programs. Oregon prekindergartens also may accept gifts, grants and other funds for the purposes of this section.

(3) Applicants shall identify how they will serve the target population and provide all components as specified in the federal Head Start performance standards and guidelines, including staff qualifications and training, facilities and equipment, transportation and fiscal management.

(4) Oregon prekindergartens shall coordinate with each other and with federal Head Start programs to ensure efficient delivery of services and prevent overlap. Oregon prekindergartens shall also work with local organizations such as local education associations serving young children and make the maximum use of local resources.

(5) Oregon prekindergartens shall:

(a) Participate in the planning process under ORS 417.777 to develop a voluntary local early childhood system plan; and

(b) Coordinate services with other services that are coordinated through the plan. The coordination of services shall be consistent with federal and state law.

SECTION 6. ORS 329.175, as amended by section 87, chapter 37, Oregon Laws 2012, is amended to read:

329.175. (1) The [*Department of Education*] **Early Learning Division** shall administer the Oregon prekindergarten program to assist eligible children with comprehensive services including educational, social, health and nutritional development to enhance their chances for success in school and life. Eligible children, upon request of parent or guardian, shall be admitted to approved Oregon prekindergartens to the extent that the Legislative Assembly provides funds.

(2) Nonsectarian organizations including school districts and Head Start grantees are eligible to compete for funds to establish an Oregon prekindergarten. Grant recipients shall serve children eligible according to federal Head Start guidelines and other children who meet criteria of eligibility adopted by rule by the [*State Board of Education*] **Early Learning Council.** However, not more than 20 percent of the total enrollment shall consist of children who do not meet Head Start guidelines. School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the program. Funds appropriated for the program shall be used to establish and maintain new or expanded Oregon prekindergartens and shall not be used to supplant

federally supported Head Start programs. Oregon prekindergartens also may accept gifts, grants and other funds for the purposes of this section.

(3) Applicants shall identify how they will serve the target population and provide all components as specified in the federal Head Start performance standards and guidelines, including staff qualifications and training, facilities and equipment, transportation and fiscal management.

(4) Oregon prekindergartens shall coordinate with each other and with federal Head Start programs to ensure efficient delivery of services and prevent overlap. Oregon prekindergartens shall also work with local organizations such as local education associations serving young children and make the maximum use of local resources.

(5) Oregon prekindergartens shall coordinate services with other services provided through the Oregon Early Learning System. The coordination of services shall be consistent with federal and state law.

SECTION 7. ORS 329.183 is amended to read:

329.183. (1) The Prekindergarten Program Trust Fund is established as a fund in the State Treasury, separate and distinct from the General Fund. Interest earned by the trust fund shall be credited to the trust fund. The primary purpose of the trust fund is to assist eligible children with comprehensive services including educational, social, health and nutritional development to enhance their chances for success in school and life. For this purpose, the trust fund is continuously appropriated to the [*Department of Education*] **Early Learning Division** for the Oregon prekindergarten program described in ORS 329.170 to 329.200.

(2) The [*department*] **division** may solicit and accept money in the form of gifts, contributions and grants to be deposited in the trust fund. Except as provided in ORS 329.185, the acceptance of federal grants for purposes of ORS 329.170 to 329.200 does not commit state funds nor place an obligation upon the Legislative Assembly to continue the purposes for which the federal funds are made available.

(3) The trust fund may be listed, if otherwise qualified, on the Oregon income tax return for checkoff pursuant to application made to the Oregon Charitable Checkoff Commission under ORS 305.690 to 305.753 by the [*department*] **division.**

SECTION 8. ORS 329.185 is amended to read:

329.185. When the federal Head Start program provides funding for programs for eligible children at or greater than the 1990-1991 per child level, eligibility for the state funded Oregon prekindergarten program shall be expanded to include programs for children whose family income exceeds the federal Head Start limits or who are in an underserved or unserved age category. After determining the increase in income limits or age level that would make children most in need of state programs eligible for them, the [*State Board of Education*] **Early Learning Division** may direct expenditure of any unex-

pending or unobligated funds appropriated for the biennium for eligible children to be expended for the additional children considered to be most in need. In the following biennium, the [*State Board of Education*] **Early Learning Division** shall include the cost of any added program for the children most in need in its biennial budget.

SECTION 9. ORS 329.190, as amended by section 40, chapter 37, Oregon Laws 2012, is amended to read:

329.190. The [*Department of Education*] **Early Learning Council** shall establish an advisory committee composed of interested parents and representatives from the health care profession, early childhood education and development staff preparation programs, Oregon Head Start Association, school districts, community colleges, Early Intervention Council, child care and other organizations. The purpose of the advisory committee is to provide advice to [*the department and*] the Early Learning Council on matters related to the Oregon prekindergarten program.

SECTION 10. ORS 329.195, as amended by section 18, chapter 37, Oregon Laws 2012, is amended to read:

329.195. (1)(a) The [*State Board of Education*] **Early Learning Council, acting as the state advisory council for purposes of the federal Head Start Act**, shall adopt rules for the establishment of the Oregon prekindergarten program.

(b) Rules adopted under this section specifically shall require:

(A) Performance standards and operating standards that are at a level no less than the level required under the federal Head Start program guidelines.

(B) Processes and procedures for recompetition that are substantially similar to the processes and procedures required under the rules and guidelines adopted under the federal Head Start Act.

(c) Federal Head Start program guidelines shall be considered as guidelines for the Oregon prekindergarten program.

(2) In developing rules for the Oregon prekindergarten program, the [*board*] **council** shall consult with the advisory committee established under ORS 329.190 and shall consider such factors as coordination with existing programs, the preparation necessary for instructors, qualifications of instructors, training of staff, adequate space and equipment and special transportation needs.

(3) The [*Department of Education*] **Early Learning Division** shall review applications for the Oregon prekindergarten program received and designate those programs as eligible to commence operation by July 1 of each year. When approving grant applications, to the extent practicable, the [*board*] **council** shall distribute funds regionally based on percentages of unmet needs as identified in the voluntary local early childhood system plans that are part of the local coordinated comprehensive plans

developed under ORS 417.775 for the county or region.

SECTION 11. ORS 329.195, as amended by sections 18 and 88, chapter 37, Oregon Laws 2012, is amended to read:

329.195. (1)(a) The [*State Board of Education*] **Early Learning Council, acting as the state advisory council for purposes of the federal Head Start Act**, shall adopt rules for the establishment of the Oregon prekindergarten program.

(b) Rules adopted under this section specifically shall require:

(A) Performance standards and operating standards that are at a level no less than the level required under the federal Head Start program guidelines.

(B) Processes and procedures for recompetition that are substantially similar to the processes and procedures required under the rules and guidelines adopted under the federal Head Start Act.

(c) Federal Head Start program guidelines shall be considered as guidelines for the Oregon prekindergarten program.

(2) In developing rules for the Oregon prekindergarten program, the [*board*] **council** shall consult with the advisory committee established under ORS 329.190 and shall consider such factors as coordination with existing programs, the preparation necessary for instructors, qualifications of instructors, training of staff, adequate space and equipment and special transportation needs.

(3) The [*Department of Education*] **Early Learning Division** shall review applications for the Oregon prekindergarten program received and designate those programs as eligible to commence operation by July 1 of each year. When approving grant applications, to the extent practicable, the [*board*] **council** shall distribute funds regionally based on percentages of unmet needs for the county or region.

SECTION 12. ORS 329.200 is amended to read:

329.200. (1) The Superintendent of Public Instruction shall report to the Legislative Assembly on the merits of continuing and expanding the Oregon prekindergarten program or instituting other means of providing early childhood development assistance.

(2) The superintendent's report shall include specific recommendations on at least the following issues:

(a) The relationship of the state-funded Oregon prekindergarten program with the common school system;

(b) The types of children and their needs that the program should serve;

(c) The appropriate level of state support for implementing the program for all eligible children, including related projects to prepare instructors and provide facilities, equipment and transportation;

(d) The state administrative structure necessary to implement the program; and

(e) Licensing or endorsement of early childhood teachers.

(3) The [Department of Education] **Early Learning Division** shall examine, monitor and assess the effectiveness of the Oregon prekindergarten program. The superintendent shall make biennial reports to the Legislative Assembly on the effectiveness of the program.

NOTE: Sections 13 through 18 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 19. Section 10, chapter 37, Oregon Laws 2012, is amended to read:

Sec. 10. (1) The Early Learning [Council] **Division** Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Early Learning [Council] **Division** Fund shall be credited to the fund.

(2) Moneys in the Early Learning [Council] **Division** Fund consist of:

- (a) Amounts donated to the fund;
- (b) Moneys transferred to the fund from the federal government, state agencies and local governments;
- (c) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;
- (d) Investment earnings received on moneys in the fund; and
- (e) Other amounts deposited in the fund from any source.

(3) Moneys in the fund are continuously appropriated to the [Early Learning Council established in section 4, chapter 519, Oregon Laws 2011,] **Department of Education** for the purpose of fulfilling the [council's] duties, functions and powers of the **Early Learning Division**.

(4) The [council] **department** may establish accounts and subaccounts within the fund when the [council] **department** determines that accounts or subaccounts are necessary or desirable and may credit any interest or income derived from moneys in the fund to any account or subaccount in the fund.

SECTION 20. (1) The amendments to section 10, chapter 37, Oregon Laws 2012, by section 19 of this 2013 Act are intended to change the name of the "Early Learning Council Fund" to the "Early Learning Division Fund."

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Early Learning Council Fund," wherever they occur in statutory law, other words designating the "Early Learning Division Fund."

SECTION 21. ORS 131A.360, as amended by section 33, chapter 37, Oregon Laws 2012, and section 18, chapter 97, Oregon Laws 2012, is amended to read:

131A.360. (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by ORS 131A.005 (12)(a).

(2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement, under ORS chapter 190, with the county in which the property was seized to provide a portion of the forfeiture proceeds to the county.

(3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection.

(4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning [Council] **Division** Fund established in section 10, chapter 37, Oregon Laws 2012, for disbursement to relief nurseries as described in ORS 417.788.

(5) If the forfeiting agency has entered into an agreement with a county under subsection (2) of this section, after paying costs under subsection (3) of this section and making the deductions required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts required by the agreement.

(6) After making all payments and deductions required by subsections (3), (4) and (5) of this section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received by a county under subsection (5) of this section or by any other public body under an intergovernmental agreement entered into under ORS 131A.355, only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools;

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment;

(e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney;

(f) Drug treatment and programs that support drug treatment; and

(g) A CASA Volunteer Program as defined in section 3, chapter 97, Oregon Laws 2012.

(7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(8) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (4) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 22. ORS 131A.365, as amended by section 34, chapter 37, Oregon Laws 2012, is amended to read:

131A.365. (1) The provisions of this section apply only when the forfeiting agency is the state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by ORS 131A.005 (12)(a).

(2) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection. Any amount paid to or retained by the Department of Justice under this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this subsection shall be deposited in the State Police Account.

(3) After payment of costs under subsection (2) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS

475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to three percent of the forfeiture proceeds, not to exceed \$50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Early Learning [Council] **Division** Fund established in section 10, chapter 37, Oregon Laws 2012, for disbursement to relief nurseries as described in ORS 417.788.

(4) If the forfeiting agency has entered into an intergovernmental agreement with another public body under ORS 131A.355, or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(5) After making all payments and deductions required by subsections (2), (3) and (4) of this section, the forfeiting agency shall distribute the remaining forfeiture proceeds as follows:

(a) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining forfeiture proceeds, and forfeiture proceeds received by the Department of Justice under subsection (4) of this section, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.

(B) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(b) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under subsection (4) of this section, shall be divided

between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police Account.

(B) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(6) Forfeiture proceeds distributed under subsection (5) of this section may be used only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools; and

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.

(7) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (3) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

SECTION 23. Section 68b, chapter 37, Oregon Laws 2012, is amended to read:

Sec. 68b. The Keep Kids Safe Registration Plate Account is established within the Early Learning [Council] Division Fund. All moneys received by the Early Learning Council from the sale of Keep Kids Safe registration plates shall be deposited into the account and are continuously appropriated to the council to be distributed to counties as provided in ORS 805.205.

SECTION 24. ORS 329.156, as amended by section 39, chapter 37, Oregon Laws 2012, is amended to read:

329.156. (1) The Department of Education and the Department of Human Services shall support the development and implementation of a network of community learning centers across the state.

(2) Within available funding, the Early Learning [Council] Division, in conjunction with local commissions on children and families or other organizations that provide training and technical assistance to schools or community programs, shall provide training and technical assistance to promote the development and implementation of community learning centers. To the extent possible, the [council] division shall use voluntary organizations to provide the training and technical assistance.

(3) If a community learning center is created by a school district, the school district shall coordinate with the local commission on children and families to ensure that the community learning center is referenced in the local coordinated comprehensive plan, implemented pursuant to ORS 417.775.

(4) Community learning centers created pursuant to this section shall:

(a) Be located in or near a school or a cluster of schools;

(b) Involve parents in the care and education of their children;

(c) Involve the local community in developing and overseeing community learning center programs;

(d) Incorporate the principles of family support services described in ORS 329.150 and 417.342;

(e) In partnership with the local school district board, create or designate an advisory committee to offer guidance on program development and implementation, with membership that is representative of the diversity of community interests, including representatives of businesses, schools, faith-based organizations, social service and health care agencies, cultural groups, recreation groups, municipal governments, community colleges, libraries, child care providers, parents and youths;

(f) Conduct an assessment of strengths, needs and assets within the community to be served by the community learning center that identifies services being delivered in the community, defines and clarifies services that are missing or overlapping and builds on any existing community assessments; and

(g) Coordinate the community assessment with the local commission on children and families.

(5) The Department of Human Services and the Department of Education shall provide technical assistance to community learning centers to develop policies ensuring that confidential information is disclosed only in accordance with state and federal laws.

SECTION 25. ORS 329.156, as amended by sections 39 and 86, chapter 37, Oregon Laws 2012, is amended to read:

329.156. (1) The Department of Education and the Department of Human Services shall support the development and implementation of a network of community learning centers across the state.

(2) Within available funding, the Early Learning [Council] Division, in conjunction with other organizations that provide training and technical assistance to schools or community programs, shall provide training and technical assistance to promote

the development and implementation of community learning centers. To the extent possible, the [council] **division** shall use voluntary organizations to provide the training and technical assistance.

(3) Community learning centers created pursuant to this section shall:

(a) Be located in or near a school or a cluster of schools;

(b) Involve parents in the care and education of their children;

(c) Involve the local community in developing and overseeing community learning center programs;

(d) Incorporate the principles of family support services described in ORS 329.150 and 417.342;

(e) In partnership with the local school district board, create or designate an advisory committee to offer guidance on program development and implementation, with membership that is representative of the diversity of community interests, including representatives of businesses, schools, faith-based organizations, social service and health care agencies, cultural groups, recreation groups, municipal governments, community colleges, libraries, child care providers, parents and youths; and

(f) Conduct an assessment of strengths, needs and assets within the community to be served by the community learning center that identifies services being delivered in the community, defines and clarifies services that are missing or overlapping and builds on any existing community assessments.

(4) The Department of Human Services and the Department of Education shall provide technical assistance to community learning centers to develop policies ensuring that confidential information is disclosed only in accordance with state and federal laws.

SECTION 26. ORS 417.787, as amended by section 49, chapter 37, Oregon Laws 2012, is amended to read:

417.787. The Early Learning [Council] **Division** shall:

(1) Determine when funds for services for children and families not described in ORS 409.010 (2)(a) and 430.215 are to be transferred to the local commission. If a local commission with an approved local coordinated comprehensive plan requests a transfer, the Early Learning [Council] **Division** shall determine whether funds can be transferred.

(2) Determine which, if any, services for children and families that are not described in ORS 409.010 (2)(a) and 430.215 are not to be transferred to local commissions but are to remain state responsibilities.

SECTION 27. ORS 417.788, as amended by sections 50 and 92, chapter 37, Oregon Laws 2012, is amended to read:

417.788. (1) The Early Learning [Council] **Division** shall support relief nurseries statewide as funding becomes available. The [council] **division** may encourage communities to establish relief nurseries for young children who are at risk and their

families. Adjoining counties may choose to establish regional relief nurseries. The relief nurseries shall:

(a) Be consistent with the voluntary early learning system overseen by the Early Learning Council; and

(b) Involve the parents of children served by the relief nurseries.

(2) Programs at the relief nurseries shall include:

(a) Therapeutic early childhood education programs; and

(b) Parent education, training and support.

(3) Each relief nursery that receives state funding shall have financial support from the community that is at least equal to 25 percent of any state allocation.

SECTION 28. The Early Learning Division shall enter into contracts with relief nurseries beginning July 1, 2013, in order to ensure service continuity and efficient delivery of contracted services.

SECTION 29. ORS 417.790, as amended by section 51, chapter 37, Oregon Laws 2012, is amended to read:

417.790. The Early Learning [Council] **Division** shall:

(1) Make grants to local commissions on children and families to fund research-based services and initiatives to improve outcomes for children, youth or families. The [council] **division** shall assist counties in the implementation of community services that are efficient, accountable, coordinated and readily available. Grants for services and initiatives to support children, youth or families shall be used at the local level according to the county's local coordinated comprehensive plan. These services shall be provided in accordance with ORS 417.715 and 417.720.

(2) Make Great Start grants to local commissions on children and families to fund community-based programs for children zero through six years of age. A county or region shall use Great Start grant funds to provide research-based early childhood programs in community settings and to provide services that have proven to be successful and that meet the needs of the community as described in the county's local coordinated comprehensive plan. These services shall be provided in accordance with ORS 417.728.

SECTION 30. ORS 417.790, as amended by sections 51 and 93, chapter 37, Oregon Laws 2012, is amended to read:

417.790. The Early Learning [Council] **Division** shall:

(1) Make grants to fund research-based services and initiatives to improve outcomes for children, youth or families. The [council] **division** and community-based coordinators of early learning services shall assist counties in the implementation of community services that are efficient, accountable, coordinated and readily available. These services

shall be provided in accordance with ORS 417.715 and 417.720.

(2) Make Great Start grants to fund community-based programs for children zero through six years of age. A county or region shall use Great Start grant funds to provide research-based early childhood programs in community settings and to provide services that have proven to be successful and that meet the needs of the community. These services shall be provided in accordance with ORS 417.728.

SECTION 31. ORS 417.793, as amended by section 52, chapter 37, Oregon Laws 2012, is amended to read:

417.793. The Early Learning [Council] **Division** shall support parents-as-teachers programs statewide through local commissions on children and families as funding becomes available. If a local commission offers a program, the program shall be part of a comprehensive, research-based approach to parent education and support. The program shall be consistent with the voluntary early childhood system plan that is part of the local coordinated comprehensive plan.

SECTION 32. ORS 417.793, as amended by sections 52 and 94, chapter 37, Oregon Laws 2012, is amended to read:

417.793. The Early Learning [Council] **Division** shall support parents-as-teachers programs statewide as funding becomes available. If a program is offered, the program shall be part of a comprehensive, research-based approach to parent education and support. The program shall be consistent with the voluntary early learning system plan overseen by the Early Learning Council.

SECTION 32a. ORS 417.795, as amended by section 53, chapter 37, Oregon Laws 2012, is amended to read:

417.795. (1) The Early Learning [Council] **Division** shall establish Healthy Start Family Support Services programs through contracts entered into by local commissions on children and families in all counties of this state as funding becomes available.

(2) These programs shall be nonstigmatizing, voluntary and designed to achieve the appropriate early childhood benchmarks and shall:

(a) Ensure that express written consent is obtained from the family prior to any release of information that is protected by federal or state law and before the family receives any services;

(b) Ensure that services are voluntary and that, if a family chooses not to accept services or ends services, there are no adverse consequences for those decisions;

(c) Offer a voluntary comprehensive screening and risk assessment of all newly born children and their families;

(d) Ensure that the disclosure of information gathered in conjunction with the voluntary comprehensive screening and risk assessment of children

and their families is limited pursuant to ORS 417.728 (7) to the following purposes:

(A) Providing services under the programs to children and families who give their express written consent;

(B) Providing statistical data that are not personally identifiable;

(C) Accomplishing other purposes for which the family has given express written consent; and

(D) Meeting the requirements of mandatory state and federal disclosure laws;

(e) Ensure that risk factors used in the risk assessment are limited to those risk factors that have been shown by research to be associated with poor outcomes for children and families;

(f) Identify, as early as possible, families that would benefit most from the programs;

(g) Provide parenting education and support services, including but not limited to community-based home visiting services and primary health care services;

(h) Provide other supports, including but not limited to referral to and linking of community and public services for children and families such as mental health services, alcohol and drug treatment programs that meet the standards promulgated by the Oregon Health Authority under ORS 430.357, child care, food, housing and transportation;

(i) Coordinate services for children consistent with the voluntary local early childhood system plan developed pursuant to ORS 417.777;

(j) Provide follow-up services and supports from zero through six years of age;

(k) Integrate data with any common data system for early childhood programs;

(L) Be included in a statewide independent evaluation to document:

(A) Level of screening and assessment;

(B) Incidence of child abuse and neglect;

(C) Change in parenting skills; and

(D) Rate of child development;

(m) Be included in a statewide training program in the dynamics of the skills needed to provide early childhood services, such as assessment and home visiting; and

(n) Meet voluntary statewide and local early childhood system quality assurance and quality improvement standards.

(3) The Healthy Start Family Support Services programs, local health departments and other providers of prenatal and perinatal services in counties, as part of the voluntary local early childhood system, shall:

(a) Identify existing services and describe and prioritize additional services necessary for a voluntary home visit system;

(b) Build on existing programs;

(c) Maximize the use of volunteers and other community resources that support all families;

(d) Target, at a minimum, all first birth families in the county; and

(e) Ensure that home visiting services provided by local health departments for children and preg-

nant women support and are coordinated with local Healthy Start Family Support Services programs.

(4) Through a Healthy Start Family Support Services program, a trained family support worker or nurse shall be assigned to each family assessed as at risk that consents to receive services through the worker or nurse. The worker or nurse shall conduct home visits and assist the family in gaining access to needed services.

(5) The services required by this section shall be provided by hospitals, public or private entities or organizations, or any combination thereof, capable of providing all or part of the family risk assessment and the follow-up services. In granting a contract, a local commission may utilize collaborative contracting or requests for proposals and shall take into consideration the most effective and consistent service delivery system.

(6) The family risk assessment and follow-up services for families at risk shall be provided by trained family support workers or nurses organized in teams supervised by a manager and including a family services coordinator who is available to consult.

(7) Each Healthy Start Family Support Services program shall adopt disciplinary procedures for family support workers, nurses and other employees of the program. The procedures shall provide appropriate disciplinary actions for family support workers, nurses and other employees who violate federal or state law or the policies of the program.

SECTION 32b. ORS 417.795, as amended by sections 53 and 95, chapter 37, Oregon Laws 2012, is amended to read:

417.795. (1) The Early Learning [Council] **Division** shall establish Healthy Start Family Support Services programs in all counties of this state as funding becomes available.

(2) These programs shall be nonstigmatizing, voluntary and designed to achieve the appropriate early childhood benchmarks and shall:

(a) Ensure that express written consent is obtained from the family prior to any release of information that is protected by federal or state law and before the family receives any services;

(b) Ensure that services are voluntary and that, if a family chooses not to accept services or ends services, there are no adverse consequences for those decisions;

(c) Offer a voluntary comprehensive screening and risk assessment of all newly born children and their families;

(d) Ensure that the disclosure of information gathered in conjunction with the voluntary comprehensive screening and risk assessment of children and their families is limited pursuant to ORS 417.728 (7) to the following purposes:

(A) Providing services under the programs to children and families who give their express written consent;

(B) Providing statistical data that are not personally identifiable;

(C) Accomplishing other purposes for which the family has given express written consent; and

(D) Meeting the requirements of mandatory state and federal disclosure laws;

(e) Ensure that risk factors used in the risk assessment are limited to those risk factors that have been shown by research to be associated with poor outcomes for children and families;

(f) Identify, as early as possible, families that would benefit most from the programs;

(g) Provide parenting education and support services, including but not limited to community-based home visiting services and primary health care services;

(h) Provide other supports, including but not limited to referral to and linking of community and public services for children and families such as mental health services, alcohol and drug treatment programs that meet the standards promulgated by the Oregon Health Authority under ORS 430.357, child care, food, housing and transportation;

(i) Coordinate services for children consistent with other services provided through the Oregon Early Learning System;

(j) Provide follow-up services and supports from zero through six years of age;

(k) Integrate data with any common data system for early childhood programs;

(L) Be included in a statewide independent evaluation to document:

(A) Level of screening and assessment;

(B) Incidence of child abuse and neglect;

(C) Change in parenting skills; and

(D) Rate of child development;

(m) Be included in a statewide training program in the dynamics of the skills needed to provide early childhood services, such as assessment and home visiting; and

(n) Meet statewide quality assurance and quality improvement standards.

(3) The Healthy Start Family Support Services programs, local health departments and other providers of prenatal and perinatal services in counties shall:

(a) Identify existing services and describe and prioritize additional services necessary for a voluntary home visit system;

(b) Build on existing programs;

(c) Maximize the use of volunteers and other community resources that support all families;

(d) Target, at a minimum, all first birth families in the county; and

(e) Ensure that home visiting services provided by local health departments for children and pregnant women support and are coordinated with local Healthy Start Family Support Services programs.

(4) Through a Healthy Start Family Support Services program, a trained family support worker or nurse shall be assigned to each family assessed as at risk that consents to receive services through the worker or nurse. The worker or nurse shall conduct home visits and assist the family in gaining access to needed services.

(5) The services required by this section shall be provided by hospitals, public or private entities or organizations, or any combination thereof, capable of providing all or part of the family risk assessment and the follow-up services. In granting a contract, collaborative contracting or requests for proposals may be used and must include the most effective and consistent service delivery system.

(6) The family risk assessment and follow-up services for families at risk shall be provided by trained family support workers or nurses organized in teams supervised by a manager and including a family services coordinator who is available to consult.

(7) Each Healthy Start Family Support Services program shall adopt disciplinary procedures for family support workers, nurses and other employees of the program. The procedures shall provide appropriate disciplinary actions for family support workers, nurses and other employees who violate federal or state law or the policies of the program.

SECTION 33. ORS 418.975, as amended by section 58, chapter 37, Oregon Laws 2012, is amended to read:

418.975. As used in ORS 418.975 to 418.985:

(1) "Cultural competence" means accepting and respecting diversity and differences in a continuous process of self-assessment and reflection on one's personal and organizational perceptions of the dynamics of culture.

(2) "Family" includes, with respect to a youth:

- (a) A biological or legal parent;
- (b) A sibling;
- (c) An individual related by blood, marriage or adoption;
- (d) A foster parent;
- (e) A legal guardian;
- (f) A caregiver;
- (g) An individual with a significant social relationship with the youth; and
- (h) Any person who provides natural, formal or informal support to the youth that the youth identifies as important.

(3) "Family-run organization" means a private nonprofit entity organized for the purpose of serving families with a youth who has a serious emotional disorder. The entity must:

- (a) Have a governing board in which a majority of the members are family members of a youth with a serious emotional disorder; and
- (b) Give a preference to family members in hiring decisions for the entity.

(4) "Identified population" means youth who have or are at risk of developing emotional, behavioral or substance use related needs, and who are involved with two or more systems of care.

(5) "Partner agency" includes the Department of Education, Oregon Youth Authority, Department of Human Services, Early Learning *[Council]* **Division**, Youth Development Council, Oregon Health Authority and other appropriate agencies involved in the system of care.

(6) "Services and supports" means public, private and community resources that assist youth in the achievement of positive outcomes.

(7) "System of care" means a coordinated network of services including education, child welfare, public health, primary care, pediatric care, juvenile justice, mental health treatment, substance use treatment, developmental disability services and any other services and supports to the identified population that integrates care planning and management across multiple levels, that is culturally and linguistically competent, that is designed to build meaningful partnerships with families and youth in the delivery and management of services and the development of policy and that has a supportive policy and management infrastructure.

(8) "Wraparound" means a definable, team-based planning process involving a youth and the youth's family that results in a unique set of community services and services and supports individualized for that youth and family to achieve a set of positive outcomes.

(9) "Youth" means an individual 18 years of age or younger.

SECTION 34. ORS 458.525, as amended by section 65, chapter 37, Oregon Laws 2012, is amended to read:

458.525. (1) The Interagency Council on Hunger and Homelessness is established. The Director of the Housing and Community Services Department shall chair the council. In addition to the director, the council shall consist of 15 members as follows:

- (a) One member representing each of the following:
 - (A) The Housing and Community Services Department.
 - (B) The Department of Corrections.
 - (C) The Oregon Business Development Department.
 - (D) The Early Learning *[Council]* **Division**.
 - (E) The Department of Education.
 - (F) The State Department of Agriculture.
 - (G) The Employment Department.
 - (H) The Department of Veterans' Affairs.
 - (I) The Department of Transportation.
 - (J) The Oregon Youth Authority.
 - (K) The Department of Community Colleges and Workforce Development.
 - (L) The Department of Justice.
 - (M) The Oregon Health Authority.
- (b) Two members representing the Department of Human Services. Of the two members representing that department:

- (A) One shall have expertise on issues affecting services to adults and families.
- (B) One shall have expertise on issues affecting services to seniors and to persons with disabilities.

(2) Each council member must be the administrative head of the listed agency or an employee of that agency who is designated by the administrative head and who has an agency policy-making role af-

fecting hunger, food programs, nutrition, homelessness or related issues.

(3) The Hunger Relief Task Force shall adopt recommendations and proposals as the task force deems appropriate. The council shall be responsible for receiving the recommendations and proposals adopted by the task force and the recommendations of any state body relating to the issue of homelessness, and for forwarding the recommendations and proposals to state agencies or other public or private organizations for action that the council deems appropriate:

(a) To ensure the coordination of state agency hunger relief efforts and homelessness relief efforts;

(b) To ensure that food and nutrition programs, other hunger relief efforts and homelessness relief efforts operate efficiently and effectively;

(c) To monitor the utilization of federal hunger relief efforts and homelessness relief efforts and provide outreach to expand underutilized programs; and

(d) To encourage the coordination of state and local programs, public and private antipoverty programs affecting food distribution and programs for assisting the homeless.

(4) The Director of the Housing and Community Services Department, in collaboration with the Director of Human Services, shall convene council meetings at least quarterly.

(5) The Director of the Housing and Community Services Department shall provide the council with staff support the director deems appropriate, by using Housing and Community Services Department employees or by contract. The director shall also provide the council with supplies as the director deems appropriate.

SECTION 35. ORS 609.652, as amended by section 66, chapter 37, Oregon Laws 2012, and section 15, chapter 67, Oregon Laws 2012, 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 352.383.

(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 section 1, chapter 67, Oregon Laws 2012, that employs humane special agents commissioned under section 1, chapter 67, Oregon Laws 2012.

(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, Early Learning [Council] Division, Youth Development Council, [Child Care Division of the Employment Department] Office of Child Care, the Oregon Youth Authority, a county health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency 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 657A.030 and 657A.250 to 657A.450.

(t) A member of the Legislative Assembly.

STATE INTERAGENCY COORDINATING COUNCIL

SECTION 36. (1) The State Interagency Coordinating Council shall submit a report to interim legislative committees on education that provides a recommendation about the appropriate entity to adopt rules and develop policy related to early childhood special education and early intervention services.

(2) When making the recommendation required by subsection (1) of this section, the council shall:

(a) Consult with the Superintendent of Public Instruction, the Early Learning System Director, providers of early childhood special education and early intervention services, parents of children with disabilities and other advocacy groups identified by the council; and

(b) Ensure that the recommendation complies with federal special education laws, continuity of program rules and other safeguards established for programs related to special education and intervention services.

(3) If the council recommends that the authority to adopt rules and develop policy be vested in the State Board of Education, the council shall recommend methods by which the

board shall seek and incorporate input from other entities providing early learning services.

(4) The report required by this section must be submitted no later than October 1, 2014.

THE OFFICE OF CHILD CARE

SECTION 37. The duties, functions and powers of the Child Care Division of the Employment Department are imposed upon, transferred to and vested in the Early Learning Division of the Department of Education.

SECTION 37a. (1) The Director of the Employment Department shall:

(a) Deliver to the Department of Education all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 37 of this 2013 Act; and

(b) Transfer to the Department of Education those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 37 of this 2013 Act.

(2) The Superintendent of Public Instruction shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 37 of this 2013 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Governor shall resolve any dispute between the Employment Department and the Department of Education relating to transfers of records, property and employees under this section, and the Governor's decision is final.

SECTION 37b. (1) The unexpended balances of amounts authorized to be expended by the Employment Department for the biennium beginning July 1, 2013, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 37 of this 2013 Act are transferred to and are available for expenditure by the Department of Education for the biennium beginning July 1, 2013, for the purpose of administering and enforcing the duties, functions and powers transferred by section 37 of this 2013 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Employment Department remain applicable to expenditures by the Department of Education under this section.

SECTION 37c. The transfer of duties, functions and powers to the Department of Educa-

tion by section 37 of this 2013 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Department of Education is substituted for the Employment Department in the action, proceeding or prosecution.

SECTION 37d. (1) Nothing in sections 37 to 37c of this 2013 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 37 of this 2013 Act. The Department of Education may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Employment Department legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 37 of this 2013 Act accruing under or with respect to the duties, functions and powers transferred by section 37 of this 2013 Act are transferred to the Department of Education. For the purpose of succession to these rights and obligations, the Department of Education is a continuation of the Employment Department and not a new authority.

SECTION 37e. Notwithstanding the transfer of duties, functions and powers by section 37 of this 2013 Act, the rules of the Employment Department with respect to such duties, functions or powers that are in effect on the operative date of section 37 of this 2013 Act continue in effect until superseded or repealed by rules of the Department of Education or the Early Learning Council. References in such rules of the Employment Department to the Employment Department or an officer or employee of the Employment Department are considered to be references to the Department of Education or an officer or employee of the Department of Education.

SECTION 37f. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, in the context of the duties, functions and powers transferred by section 37 of this 2013 Act, reference is made to the Employment Department, or an officer or employee of the Employment Department, whose duties, functions or powers are transferred by section 37 of this 2013 Act, the reference is considered to be a reference to the Department of Education or an officer or employee of the Department of Education who by this 2013 Act is charged with carrying out such duties, functions and powers.

SECTION 38. ORS 657A.010, as amended by section 117, chapter 37, Oregon Laws 2012, is amended to read:

657A.010. (1) There is established within the *[Employment Department a Child Care Division]* **Early Learning Division the Office of Child Care.**

(2)(a) The **Office of Child Care** *[Division]*, 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 1990, the Dependent Care Planning and Development Grant 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 1990 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 1990 and the most recent estimate of the balance of the funds.**

(3) The **Office of Child Care** *[Division]* shall comply with directives of the Early Learning Council established in section 4, chapter 519, Oregon Laws 2011, in the *[division's]* **office's** implementation of the provisions of ORS 657A.250 to 657A.450.

(4) 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** *[Division]* pursuant to subsection (2) of this section, ORS 657A.310 and 657A.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** *[Division]* and shall be used in a manner consistent with the grant of funds or for the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

SECTION 39. (1) **The amendments to ORS 657A.010 by section 38 of this 2013 Act are intended to change the name of the "Child Care Division" to the "Office of Child Care."**

(2) **For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Child Care Division," wherever they occur in statutory law, other words designating the "Office of Child Care."**

SECTION 40. ORS 657A.020 is amended to read:

657A.020. (1) The **Office of Child Care** *[Division]* staff shall provide technical assistance, linkage of local agencies, data collection and monitoring.

(2) The **Office of Child Care** *[Division]* shall continually monitor and disseminate information about federal and charitable programs for the purposes of ORS 657A.100 to 657A.190.

SECTION 41. ORS 657A.030, as amended by section 5, chapter 348, Oregon Laws 2009, section 7, chapter 60, Oregon Laws 2010, and section 3, chapter 3, Oregon Laws 2012, is amended to read:

657A.030. (1) The *[Child Care Division of the Employment Department]* **Office of Child Care** shall establish a Central Background Registry.

(2) 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 (8) of this section.

(3) Upon receiving an application for enrollment in the Central Background Registry, the *[division]* **office** shall complete a criminal records check under ORS 181.534 and shall complete a child protective services records check with the Department of Human Services. The *[division]* **office** shall enroll the individual in the registry if the individual:

(a) Is determined to have no criminal or child protective services history or to have dealt with the issues and provided adequate evidence of suitability for the registry;

(b) Has paid the applicable fee established pursuant to ORS 657A.275; and

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

(4) The *[division]* **office** may conditionally enroll an individual in the registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the *[division]* **office** for enrollment in the registry.

(5) An enrollment in the Central Background Registry shall expire two years from the date of enrollment and may be renewed upon application to the *[division]* **office**, payment of the fee established pursuant to ORS 657A.275 and compliance with rules adopted by the *[division]* **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 from the registry by the *[division]* **office**.

(6)(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.

(7) The *[division]* **Early Learning Council** may adopt any rules necessary to carry out the purposes

of this section and the criminal records check program.

(8) For purposes of this section, “subject individual” means a subject individual as defined by the [division] **Early Learning Council** by rule or a person who applies to be:

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

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

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

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

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

(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; or

(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.

(9)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (8)(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 [division] **office** from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 657A.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 (8)(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 [division] **office** from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 657A.010.

SECTION 42. ORS 657A.180, as amended by section 118, chapter 37, Oregon Laws 2012, is amended to read:

657A.180. (1) The **Office of Child Care** [Division] shall create an advisory committee to advise the [division] **office** on the development and administration of child care resource and referral policies and practices. The **Office of Child Care** [Division] shall, in consultation with the advisory committee, establish criteria for proposals, prepare requests for proposals, receive proposals and award grants for the establishment of resource and referral programs.

(2) The **Office of Child Care** [Division] shall collect and report data concerning resource and referral programs.

(3)(a) The local resource and referral agencies shall match grant funds in an amount not less than 10 percent of grant funds received. Matching financial support includes, but is not limited to, in-kind contributions.

(b) As used in this subsection, “in-kind contributions” means nonmonetary contributions that include but are not limited to:

(A) Provision of rent-free program space;

(B) Provision of utilities;

(C) Provision of custodial services;

(D) Provision of secretarial services;

(E) Provision of liability insurance or health insurance benefits;

(F) Administrative services; and

(G) Transportation services.

(4) The **Office of Child Care** [Division] shall provide to the Early Learning Council a report that summarizes the development and administration of child care resource and referral policies and practices under this section. The report must be provided at least twice a year and as otherwise required by the Early Learning Council.

SECTION 43. ORS 657A.190 is amended to read:

657A.190. (1) The criteria for the renewal of a resource and referral program shall include the following:

(a) Current and continuous satisfactory performance as a resource and referral agency providing the full range of services required by ORS 657A.100 to 657A.190.

(b) Full fiscal and program compliance with contract requirements established by the **Office of Child Care** [Division].

(c) Cost effectiveness.

(d) Extent and quality of service to the community.

(2) The [division] **office** shall reallocate any funds made available through nonrenewal of a contract for resource and referral programs.

(3) Satisfactory contract performance by a resource and referral agency shall be a condition for the renewal of that contract in the subsequent fiscal year.

SECTION 44. ORS 657A.250 is amended to read:

657A.250. As used in ORS 657A.030 and 657A.250 to 657A.450, 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 657A.280 by the **Office of Child Care** [*Division*] 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) Subject to ORS 657A.440, "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. "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 [*division*] **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) "*Division*" means the *Child Care Division of the Employment Department.*]

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

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

[(9)] (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.

[(10)] (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.

[(11)] (10) "Record" means the record that is issued under ORS 657A.255 to a preschool recorded program or under ORS 657A.257 to a school-age recorded program.

[(12)] (11) "Registration" means the registration that is issued under ORS 657A.330 by the **Office of Child Care** [*Division*] to a family child care home where care is provided in the family living quarters of the provider's home.

[(13)] (12) "School age" means of an age eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, means of an age eligible to be enrolled in first grade or above in the next school year.

[(14)] (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 657A.280 or registered under ORS 657A.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.

[(15)] (14) "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 45. ORS 657A.252 is amended to read:

657A.252. (1) Notwithstanding ORS 657A.250 (4), care provided to children other than the children of the person providing the care by a person whose enrollment in the Central Background Registry es-

established by ORS 657A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person's certification or registration while under investigation by the **Office of Child Care** [Division], is "child care" for purposes of ORS 657A.030 and 657A.250 to 657A.450.

(2) Notwithstanding ORS 657A.250 (5), a facility providing care for four hours or less per day that is primarily educational to preschool children that is operated by a person whose enrollment in the Central Background Registry established by ORS 657A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person's certification or registration while under investigation by the **Office of Child Care** [Division], is a "child care facility" for purposes of ORS 657A.030 and 657A.250 to 657A.450.

SECTION 46. ORS 657A.255 is amended to read: 657A.255. (1) A person operating a preschool recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the [Child Care Division of the Employment Department] **Office of Child Care** as provided in this section.

(2) To obtain recording, the person must apply to the [division] **office** by submitting a completed record application form and a nonrefundable fee as established by the [division] **office**. The [division] **office** shall determine and apply the fee through rules adopted by the [division] **Early Learning Council** under ORS 657A.275. The [division] **office** shall deposit fees received under this subsection as provided in ORS 657A.310 (2).

(3) The [division] **office** shall issue a record to a person operating a preschool recorded program if the [division] **office** determines that the applicant meets the requirements of ORS 657A.250 to 657A.450 and the rules adopted pursuant to ORS 657A.250 to 657A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the preschool recorded program only on the premises described in the record and only by the person named in the record.

(6) The [division] **office** shall create and maintain a database of preschool recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

- (a) Name and address of the program;
- (b) Name of operator; and
- (c) Significant program information, as determined by the [division] **Early Learning Council** by rule.

(7) A preschool recorded program recorded under this section must post, and provide parents with, a notice that the preschool recorded program is not certified under ORS 657A.280 or registered under ORS 657A.330.

(8) An initial application or renewal application for recording of a preschool recorded program may be denied, revoked or suspended, if the [division] **office** finds:

(a) That the program or its operation does not comply with ORS 657A.250 to 657A.450, with applicable rules and with any term or condition imposed under the record; or

(b) That visitation, on-site investigation or inspection of a program or its records authorized by ORS 657A.390 has not been permitted.

(9) The [division] **Early Learning Council** shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed \$100.

SECTION 47. ORS 657A.257 is amended to read: 657A.257. (1) A person operating a school-age recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the [Child Care Division of the Employment Department] **Office of Child Care** as provided in this section.

(2) To obtain recording, the person must apply to the [division] **office** by submitting a completed record application form and a nonrefundable fee as established by the [division] **office**. The [division] **office** shall determine and apply the fee through rules adopted by the [division] **Early Learning Council** under ORS 657A.275. The [division] **office** shall deposit fees received under this subsection as provided in ORS 657A.310 (2).

(3) The [division] **office** shall issue a record to a person operating a school-age recorded program if the [division] **office** determines that the applicant meets the requirements of ORS 657A.250 to 657A.450 and the rules adopted pursuant to ORS 657A.250 to 657A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the school-age recorded program only on the premises described in the record and only by the person named in the record.

(6) The [division] **office** shall create and maintain a database of school-age recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

- (a) Name and address of the program;
- (b) Name of operator; and
- (c) Significant program information, as determined by the [division] **Early Learning Council** by rule.

(7) A school-age recorded program recorded under this section must post, and provide parents with, a notice that the school-age recorded program is not certified under ORS 657A.280 or registered under ORS 657A.330.

(8) An initial application or renewal application for recording of a school-age recorded program may be denied, revoked or suspended, if the [division] office finds:

(a) That the program or its operation does not comply with ORS 657A.250 to 657A.450, with applicable rules and with any term or condition imposed under the record; or

(b) That visitation, on-site investigation or inspection of a program or its records authorized by ORS 657A.390 has not been permitted.

(9) The [division] **Early Learning Council** shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed \$100.

SECTION 48. ORS 657A.260 is amended to read: 657A.260. (1) After consultation with appropriate agencies and interested persons, the [Child Care Division] **Early Learning Council** by rule shall establish minimum standards for child care facilities and the operation thereof and for the administration of ORS 657A.030 and 657A.250 to 657A.450.

(2) In establishing minimum standards of health and safety, the [division] council shall consult with the Oregon Health Authority and the State Fire Marshal and shall give consideration to their recommendations and to all basic requirements for the protection of the children to receive child care, including the criteria prescribed in ORS 657A.290, and may adopt rules applicable to different categories of child care facilities, considering:

(a) The numbers and ages of the children to receive care in the child care facility.

(b) The number, experience and training of the staff of the child care facility.

(c) The types and qualities of equipment and other factors in the physical plant of the child care facility.

(d) Any other factor affecting the care provided in the child care facility.

SECTION 49. ORS 657A.263 is amended to read: 657A.263. (1) As used in this section:

(a) "Certified child care facility" means a child care facility that has been certified under ORS 657A.280 by the [Child Care Division of the Employment Department] **Office of Child Care**.

(b) "Child care facility" has the meaning given that term in ORS 657A.250 (5).

(c) "Registered child care facility" means a child care facility that has been registered under ORS 657A.330 by the [Child Care Division of the Employment Department] **Office of Child Care**.

(2) Every certified child care facility and registered child care facility shall:

(a) Adopt a plan to provide for the safety of children who are receiving child care at a child care facility in the event of an emergency that requires immediate action by the staff of the facility due to conditions of imminent danger that pose a threat to the life, health or safety of children who are receiving child care at the facility; and

(b) Provide training to all employees of the child care facility about the responsibilities of the employees to implement the plan required by this section.

(3) The [Child Care Division of the Employment Department] **Early Learning Council** shall adopt by rule the requirements for the plan and training required by this section. The rules adopted shall include, but are not limited to, procedures for the evacuation of the children who are receiving child care at the child care facility to a place of safety when the conditions of imminent danger require relocation of those children.

SECTION 50. ORS 657A.270 is amended to read: 657A.270. (1) A certification or registration authorized by ORS 657A.030 and 657A.250 to 657A.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 [Child Care Division of the Employment Department] **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 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, 657A.030 and 657A.250 to 657A.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** [Division] has acted on the application for renewal and has given notice of the action taken.

SECTION 51. ORS 657A.275 is amended to read: 657A.275. (1) The [Child Care Division of the Employment Department] **Early Learning Council** shall adopt rules establishing fees for certification, registration and recording under ORS 657A.250 to 657A.450.

(2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Legislative Assembly prior to adopting the fees and charges, the fees and charges established under ORS 181.534, 657A.030 and 657A.250 to 657A.450 may not exceed the cost of administering the program of the [division] **Office of Child Care** pertaining to the purpose for which the fee is established, as authorized by the Legislative Assembly within the budget of the [division] office.

(3) Notwithstanding subsection (2) of this section and any other provision of this chapter, the following fees established by the [division] **Early Learn-**

ing Council under ORS 657A.030 and 657A.250 to 657A.450 may not exceed:

- (a) For Certified Family Child Care Home Initial Certification, \$25;
- (b) For Certified Family Child Care Home Annual Fee Per Certified Space, \$2;
- (c) For Child Care Center Initial Certification, \$100;
- (d) For Child Care Center Annual Fee Per Certified Space, \$2;
- (e) For Registered Family Child Care Home Registration, \$30;
- (f) For Preschool Recorded Program Recording, \$20;
- (g) For School-Age Recorded Program Recording, \$20;
- (h) For administering a class on child care abuse and neglect issues, \$10; and
- (i) For enrollment in the Central Background Registry, the cost of administering the program, including fees for:
 - (A) Duplicate enrollment in the Central Background Registry;
 - (B) Law Enforcement Data System criminal records check; and
 - (C) Federal Bureau of Investigation fingerprint check.

SECTION 52. ORS 657A.280 is amended to read: 657A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 657A.330, without a certification for the facility from the **Office of Child Care [Division]**.

(2) The [*Child Care Division*] **Early Learning Council** shall adopt rules for the certification of a family child care home caring for not more than 16 children. The rules shall be specifically adopted for the regulation of certified child care facilities operated in a facility constructed as a single-family dwelling. Notwithstanding fire and other safety regulations, the rules that the [*Child Care Division*] **council** adopts for certified child care facilities shall set standards that can be met without significant architectural modification of a typical home. In adopting the rules, the [*Child Care Division*] **council** may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time.

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than 16 children, the [*Child Care Division*] **council** shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the **Office of Child Care [Division]** and receive

a certification upon meeting certification requirements.

SECTION 53. ORS 657A.290 is amended to read: 657A.290. A person applying for a certification for a child care facility shall demonstrate to the satisfaction of the **Office of Child Care [Division]** that:

(1) The moral character and habits of the person will not endanger the well-being of children for whom the person is to provide care.

(2) The attitude of the person toward children and understanding of their needs qualify the person to care for children.

(3) The person is physically and mentally capable of caring for children.

(4) The facility and its operation are adequate to protect the health, the safety and the physical, moral and mental well-being of the children to be cared for in the facility, including but not limited to:

(a) Adequate staffing by suitable persons qualified by education or experience to meet their respective responsibilities in the care of children.

(b) Adequate physical facilities for the care of children, such as building construction, sanitation, plumbing, heating, lighting, ventilation, maintenance, indoor and outdoor activity areas and fire protection.

(c) A program of activities conforming to recognized practices in the areas of child welfare, education and physical and mental health to provide opportunity for development and recreation.

(d) Exclusion from the facility of individuals whose presence may be detrimental to the welfare of children, including exclusion of any individual with a criminal record indicating conviction of any crime which would bar the individual from operating or being employed in a child care facility under ORS 657A.260.

SECTION 54. ORS 657A.300 is amended to read: 657A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee, the **Office of Child Care [Division]** shall issue a certification if the [*division*] **office** finds that the child care facility and its operations are in compliance with the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, 657A.030 and 657A.250 to 657A.450.

(2) The **Office of Child Care [Division]** may issue a temporary certification, subject to reasonable terms and conditions, for a period not longer than 180 days to a child care facility that does not comply with the requirements and rules if the [*division*] **office** finds that the health and safety of any child will not be endangered thereby. Not more than one temporary certification shall be issued for the same child care facility in any 12-month period.

(3) The **Office of Child Care [Division]** shall serve as the state agency authorized, upon request, to certify compliance with applicable federal child

care standards or requirements by any facility providing child care in the state.

SECTION 55. ORS 657A.310, as amended by section 119, chapter 37, Oregon Laws 2012, is amended to read:

657A.310. (1) Application for a certification or for the annual renewal thereof shall be made to the **Office of Child Care [Division]** on forms provided by the [division] **office** and accompanied by a non-refundable 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 [division] **Early Learning Council** pursuant to ORS 657A.275.

(2) All fees received under subsection (1) of this section shall be deposited in the Child Care Fund established under ORS 657A.010 (4) and may be used for the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

(3) Any certification issued pursuant to ORS 657A.030 and 657A.250 to 657A.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 657A.270 (2), an annual certification expires one year from the date of issuance.

SECTION 56. ORS 657A.330 is amended to read:

657A.330. (1) A provider operating a family child care home where care is provided in the family living quarters of the provider's home that is not subject to the certification requirements of ORS 657A.280 may not operate a child care facility without registering with the [Child Care Division of the Employment Department] **Office of Child Care**.

(2) A child care facility holding a registration may care for a maximum of 10 children, including the provider's own children. Of the 10 children:

(a) No more than six may be younger than school age; and

(b) No more than two may be 24 months of age or younger.

(3)(a) To obtain a registration, a provider must apply to the **Office of Child Care [Division]** by submitting a completed application work sheet and a nonrefundable fee. The fee shall vary according to the number of children for which the facility is requesting to be registered, and shall be determined and applied through rules adopted by the [division] **Early Learning Council** under ORS 657A.275. The fee shall be deposited as provided in ORS 657A.310 (2). The [division] **office** may waive any or all of the fee if the [division] **office** determines that imposition of the fee would impose a hardship on the provider.

(b) Upon receipt of an initial or renewal application satisfactory to the [division] **office**, the [division] **office** shall conduct an on-site review of the child care facility under this section. The on-site re-

view shall be conducted within 30 days of the receipt of a satisfactory application.

(4) The [division] **office** shall issue a registration to a provider operating a family child care home if:

(a) The provider has completed a child care overview class administered by the [division] **office**;

(b) The provider has completed two hours of training on child abuse and neglect issues;

(c) The provider is currently certified in infant and child first aid and cardiopulmonary resuscitation;

(d) The provider is certified as a food handler under ORS 624.570; and

(e) The [division] **office** determines that the application meets the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, 657A.030 and 657A.250 to 657A.450, and receives a satisfactory records check, including criminal records and protective services records.

(5) Unless the registration is revoked as provided in ORS 657A.350, the registration is valid for a period of two years from the date of issuance. The [division] **office** may renew a registration of a provider operating a family child care home if the provider:

(a) Is currently certified in infant and child first aid and cardiopulmonary resuscitation;

(b) Has completed a minimum of eight hours of training related to child care during the most recent registration period; and

(c) Is certified as a food handler under ORS 624.570.

(6) A registration authorizes operation of the facility only on the premises described in the registration and only by the person named in the registration.

(7) The [division] **Early Learning Council** shall adopt rules:

(a) Creating the application work sheet required under subsection (3) of this section;

(b) Defining full-time and part-time care;

(c) Establishing under what circumstances the adult to child ratio requirements may be temporarily waived; and

(d) Establishing health and safety procedures and standards on:

(A) The number and type of toilets and sinks available to children;

(B) Availability of steps or blocks for use by children;

(C) Room temperature;

(D) Lighting of rooms occupied by children;

(E) Glass panels on doors;

(F) Condition of floors;

(G) Availability of emergency telephone numbers; and

(H) Smoking.

(8) The [division] **office** shall adopt the application work sheet required by subsection (3) of this section. The work sheet must include, but need not be limited to, the following:

(a) The number and ages of the children to be cared for at the facility; and

(b) The health and safety procedures in place and followed at the facility.

(9) The [division] **office**, upon good cause shown, may waive one or more of the registration requirements. The [division] **office** may waive a requirement only if appropriate conditions or safeguards are imposed to protect the welfare of the children and the consumer interests of the parents of the children. The [division] **office** may not waive the on-site review requirement for applicants applying for an initial registration or renewal of a registration.

(10) The [division] **Early Learning Council**, by rule, shall develop a list of recommended standards consistent with standards established by professional organizations regarding child care programs for child care facilities. Compliance with the standards is not required for a registration, but the [division] **office** shall encourage voluntary compliance and shall provide technical assistance to a child care facility attempting to comply with the standards. The child care facility shall distribute the list of recommended minimum standards to the parents of all children cared for at the facility.

(11) In adopting rules relating to registration, the [division] **Early Learning Council** shall consult with the appropriate legislative committee in developing the rules to be adopted. If the rules are being adopted during a period when the Legislative Assembly is not in session, the [division] **Early Learning Council** shall consult with the appropriate interim legislative committee.

SECTION 57. ORS 657A.350 is amended to read:

657A.350. An initial application from a child care facility for certification or registration or a renewal application from a child care facility for certification or registration may be denied, or a temporary or regular certification or regular registration may be revoked or suspended, if the [Child Care Division of the Employment Department] **Office of Child Care** finds:

(1) That the facility or its operation does not comply with ORS 181.537, 657A.030 and 657A.250 to 657A.450 or with applicable rules or with any term or condition imposed under the certification or registration; or

(2) That visitation, on-site review or inspection of a facility or its records authorized by ORS 657A.390 or 657A.400 has not been permitted.

SECTION 58. ORS 657A.360 is amended to read:

657A.360. (1) Upon deciding to deny, revoke, suspend or not to renew a certification or registration, the [Child Care Division of the Employment Department] **Office of Child Care** shall give notice and opportunity for hearing as provided in ORS chapter 183.

(2) The **Office of Child Care** [Division] shall make the final decision and notice thereof shall be sent by certified mail to the address of the child care facility as shown on the records of the [division] **office**. The decision of the [division] **office** is reviewable by the Court of Appeals in the manner provided

in ORS 183.480 for the review of orders in contested cases.

SECTION 59. ORS 657A.370 is amended to read:

657A.370. Without the necessity of prior administrative proceedings or hearing and entry of an order or at any time during such proceedings if they have been commenced, the **Office of Child Care** [Division] may institute proceedings to enjoin the operation of any child care facility operating in violation of ORS 181.537, 657A.030 and 657A.250 to 657A.450 or the rules promulgated pursuant to ORS 181.534, 181.537, 657A.030 and 657A.250 to 657A.450.

SECTION 60. ORS 657A.390 is amended to read:

657A.390. (1) Whenever an authorized representative of the **Office of Child Care** [Division] is advised or has reason to believe that child care that is subject to regulation by the [division] **office** is being provided without a certification, registration or record, the authorized representative may visit and conduct an on-site investigation of the premises of the facility at any reasonable time to determine whether the facility is subject to the requirements of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

(2) At any reasonable time, an authorized representative of the **Office of Child Care** [Division] may conduct an on-site investigation of the premises of any certified or registered child care facility to determine whether the child care facility is in conformity with ORS 181.537, 657A.030 and 657A.250 to 657A.450 and the rules promulgated pursuant to ORS 181.534, 181.537, 657A.030 and 657A.250 to 657A.450.

(3) An authorized representative of the **Office of Child Care** [Division] shall conduct an on-site investigation of the premises of any certified or registered child care facility or of any other child care facility that is subject to regulation by the [division] **office** if the [division] **office** receives a serious complaint about the child care facility. The [division] **Early Learning Council**, by rule, shall adopt a definition for "serious complaint."

(4) Any state agency that receives a complaint about a certified or registered child care facility, a preschool recorded program or a school-age recorded program shall notify the **Office of Child Care** [Division] about the complaint and any subsequent action taken by the state agency based on that complaint.

(5) The director and operator of a child care facility, a preschool recorded program or a school-age recorded program shall permit an authorized representative of the [division] **office** to inspect records of the facility or program and shall furnish promptly reports and information required by the [division] **office**.

SECTION 61. ORS 657A.400 is amended to read:

657A.400. (1) An authorized representative of the Oregon Health Authority may inspect the premises of a child care facility certified under ORS 657A.280 to determine whether the facility is in conformity with applicable laws and regulations relating to health and sanitation.

(2) An authorized representative of the authority shall inspect any child care facility when requested to do so by the **Office of Child Care [Division]** in accordance with arrangements under ORS 657A.420 and shall submit written findings to the **Office of Child Care [Division]**. The **Office of Child Care [Division]** shall not issue or renew any certification for any child care facility for which an inspection by the authority has been requested unless an authorized representative of the authority submits a written finding that the facility is in compliance with applicable laws and regulations relating to health and sanitation.

(3) An environmental health specialist's inspection may be performed by a private consultant so long as the consultant is registered under ORS chapter 700.

SECTION 62. ORS 657A.410 is amended to read: 657A.410. (1) In the event that any authorized representative of the **Office of Child Care [Division]**, Oregon Health Authority or other agency is denied access to any premises for the purpose of making an inspection in the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450, the representative shall not inspect the premises without a search warrant.

(2) Application for a search warrant to inspect the premises shall be made to any magistrate authorized to issue a warrant of arrest. The application must be supported by an affidavit filed with the magistrate showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, the statutes and rules which provide the basis for inspection, whether it is a routine or periodic inspection, an on-site review or an investigation instituted by complaint and other specific or general information concerning the premises.

(3) If the magistrate is satisfied that there is probable cause to believe that the grounds of the application exist, the magistrate shall issue the search warrant specifying the purpose and extent of the inspection, on-site review or investigation of the premises covered by the warrant.

SECTION 63. ORS 657A.420 is amended to read: 657A.420. The **Office of Child Care [Division]** may enter into cooperative arrangements with the Oregon Health Authority, the State Fire Marshal and other public agencies for the provision of services in the inspection of child care facilities in the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450. The arrangements shall designate which services shall be reimbursed and the rate and manner of reimbursement.

SECTION 64. ORS 657A.450 is amended to read: 657A.450. The **Office of Child Care [Division]** may consult with, advise or train the staffs of child care facilities or other interested persons concerning child care programs.

SECTION 65. ORS 657A.490, as amended by section 67, chapter 37, Oregon Laws 2012, is amended to read:

657A.490. If the Department of Education is able to find adequate funding under ORS 657A.493, the department, in partnership with organizations including, but not limited to, the Institute on Violence and Destructive Behavior at the University of Oregon, the [*Child Care Division of the Employment Department, the*] Early Learning Council, the Youth Development Council and the Oregon Center for Career Development in Childhood Care and Education:

(1) Shall establish, in coordination with existing training systems, a statewide child care provider training program that will educate child care providers on:

(a) The importance of healthy brain development in the first three years of a child's life.

(b) The identification of risk factors and behaviors that indicate that a child:

(A) Needs special education or mental health treatment; or

(B) Is at risk of becoming involved in the criminal justice system.

(c) Appropriate referrals for intervention for the behaviors identified under paragraph (b) of this subsection.

(2) Shall establish an application process for child care providers who wish to attend the program and may charge child care providers a fee for attending the program.

(3) May adopt any rules necessary to implement this section.

SECTION 66. ORS 657A.700, as amended by section 120, chapter 37, Oregon Laws 2012, is amended to read:

657A.700. As used in ORS 657A.700 to 657A.718:

(1) "Child care provider" means a provider, for compensation, of care, supervision or guidance to a child on a regular basis in a center or in a home other than the child's home. "Child care provider" does not include a person who is the child's parent, guardian or custodian.

(2) "Community agency" means a nonprofit agency that:

(a) Provides services related to child care, children and families, community development or similar services; and

(b) Is eligible to receive contributions that qualify as deductions under section 170 of the Internal Revenue Code.

(3) "High quality child care" means child care that meets standards for high quality child care established or approved by the Early Learning Council.

(4) "Qualified contribution" means a contribution made by a taxpayer to the [*Child Care Division of the Employment Department*] **Office of Child Care** or a selected community agency for the purpose of promoting child care, and for which the taxpayer

will receive a tax credit certificate under ORS 657A.706.

(5) "Tax credit certificate" means a certificate issued by the **Office of Child Care [Division]** to a taxpayer to qualify the taxpayer for a tax credit under ORS 315.213.

(6) "Tax credit marketer" means an individual or entity selected by the **Office of Child Care [Division]** to market tax credits to taxpayers.

SECTION 67. ORS 657A.703 is amended to read: 657A.703. (1) The [*Child Care Division of the Employment Department*] **Office of Child Care**, in collaboration with an advisory committee established by the [*Child Care Division*] **office**, shall establish a program to:

(a) Allocate tax credit certificates to taxpayers that make qualified contributions to the **Office of Child Care [Division]**; and

(b) Distribute to child care providers moneys from qualified contributions and other contributions.

(2) The purposes of the program are to:

(a) Encourage taxpayers to make contributions to the **Office of Child Care [Division]** by providing a financial return on qualified contributions and by soliciting other contributions.

(b) Achieve specific and measurable goals for targeted communities and populations.

(c) Set standards for the child care industry concerning the cost of providing quality, affordable child care.

(d) Strengthen the viability and continuity of child care providers while making child care more affordable for low and moderate income families.

SECTION 68. ORS 657A.706 is amended to read: 657A.706. (1) For the purpose of implementing the program established under ORS 657A.703, the [*Child Care Division of the Employment Department*] **Early Learning Council**, in collaboration with an advisory committee established by the [*Child Care Division*] **council and the Office of Child Care**, shall:

(a) Adopt rules.

(b) Select a tax credit marketer who agrees to market tax credits to taxpayers.

(c) Identify child care goals that are consistent with the purposes provided in ORS 657A.703 (2). The goals identified under this paragraph shall take into account state resources and needs.

(d) Develop by rule the application process an entity must complete to be designated as a community agency under ORS 657A.700 to 657A.718, and any process for the renewal of that designation.

(e) Select one or more community agencies.

(f) Enter into an agreement with each selected community agency to perform the functions specified in ORS 657A.715.

(g) Determine the total value of moneys to be available to each selected community agency to distribute to providers based on goals identified under paragraph (c) of this subsection, and distribute those moneys in the manner provided in ORS 657A.712 to

the selected community agencies. The total value of moneys available to all selected community agencies in this state may not exceed the amount of contributions received from taxpayers during the tax year minus any reasonable administrative costs incurred by the **Office of Child Care [Division]** and the selected community agencies.

(2) The [*Child Care Division*] **Early Learning Council** may adopt rules that establish a fixed percentage that is less than 100 percent by which the amount contributed by a taxpayer will be certified for a tax credit by the [*division*] **Office of Child Care**. The purpose of the grant of rulemaking authority under this subsection is to permit the [*division*] **Early Learning Council** to calibrate the amount of the tax credit to interpretations of the deductibility of qualified contributions under section 170 of the Internal Revenue Code for federal tax purposes.

(3)(a) The **Office of Child Care [Division]** shall issue tax credit certificates in the chronological order in which the contributions are received by the [*division*] **office**. The [*division*] **office** shall issue tax credit certificates to contributors until the total value of all certificates issued by the [*division*] **office** for the calendar year equals \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible for the tax credit allowed under ORS 315.213. Except as provided in rules adopted under subsection (2) of this section, the certified value shall equal the amount of the contribution.

(b) The **Office of Child Care [Division]** may not issue a tax credit certificate to a taxpayer to the extent the credit value to be certified, when added to the total credit value previously certified by the [*Child Care Division*] **office** under paragraph (a) of this subsection for the calendar year exceeds \$500,000.

(c) The **Office of Child Care [Division]** shall send a copy of all tax credit certificates issued under this section to the Department of Revenue.

(d) Qualified contributions shall be deposited in the Child Care Fund.

(4) A taxpayer that receives a notice of denial of a tax credit certificate or that receives a tax credit certificate issued for an amount that is less than the amount contributed may request a refund for the amount contributed within 90 days of the [*Child Care Division's*] denial or issuance of the certificate **by the Office of Child Care**. The **Office of Child Care [Division]** must send notice of a denial or changed amount and refund the amount for which a tax credit will not be granted within 30 days after receiving the request. The refund shall be made from the Child Care Fund.

(5) The [*Child Care Division*] **Early Learning Council** may establish by rule any other provisions required to implement the program established under ORS 657A.700 to 657A.718.

SECTION 69. ORS 657A.709 is amended to read:

657A.709. (1) In selecting a community agency under ORS 657A.706, the [*Child Care Division of the Employment Department*] **Office of Child Care** shall consider:

(a) A prospective agency's financial soundness, net worth, cash flow and accounting capacity to manage the tax credit program;

(b) A prospective agency's demonstrated ability to serve low and moderate income families;

(c) The degree to which the governing board of the prospective agency is representative of the community in which the agency is located, has a low turnover rate of board members, has experience with financial matters and has a demonstrated history of collaboration with other community agencies; and

(d) The experience and expertise of the executive or managing officer and staff of the prospective agency in child care business management and small business development.

(2) The [*division*] **office** shall select the community agency that, in the judgment of the [*division*] **office** and based on the criteria set forth in subsection (1) of this section, will best serve the interests of the community for which it is selected.

SECTION 70. ORS 657A.712 is amended to read:

657A.712. (1) The [*Child Care Division of the Employment Department*] **Office of Child Care** shall distribute revenues in the Child Care Fund that are derived from contributions, minus the amounts needed to make refunds under ORS 657A.706 (4) and to cover expenses of the **Office of Child Care** [*Division*] in administering ORS 657A.700 to 657A.718.

(2) Distributions shall be made to community agencies selected under ORS 657A.706 in the proportion that the **Office of Child Care** [*Division*] determines best promotes the provision of child care in this state.

(3) Moneys distributed to selected community agencies shall be disbursed to child care providers, consistent with rules adopted by the [*Child Care Division*] **Early Learning Council** relating to the disbursement of moneys by selected community agencies. The [*Child Care Division*] **council** shall consider the factors described in ORS 657A.715 (2)(h) when adopting rules under this subsection.

SECTION 71. ORS 657A.715 is amended to read:

657A.715. (1) Each community agency selected under ORS 657A.706 shall disburse moneys to child care providers, pursuant to ORS 657A.712 and rules adopted thereunder.

(2) A selected community agency must:

(a) Coordinate an application process by which persons may apply to be participating providers;

(b) Enter into agreements with participating providers under which the duties and responsibilities of participating providers and the community agency are stated;

(c) Provide or coordinate required training for participating providers;

(d) Monitor participating providers, through visits to providers and otherwise;

(e) Oversee the process by which a participating provider verifies the income of a family and establishes the total child care fee charged to a family;

(f) Report on participating provider compliance with ORS 657A.718 and other applicable requirements to contributors and the [*Child Care Division of the Employment Department*] **Office of Child Care**;

(g) Establish a maximum family income level for the region for purposes of the child care fee limitation to which participating providers are subject under ORS 657A.718 (1)(g); and

(h) Determine, consistently with rules adopted by the [*Child Care Division*] **Early Learning Council**, the amount of moneys to be disbursed to a participating provider based on the incomes of the families the provider serves, the child care fees the provider charges and the actual cost to the provider of providing quality, affordable child care.

(3)(a) A selected community agency must distribute to participating child care providers all moneys that are available to the agency as a result of the determination made by the **Office of Child Care** [*Division*] under ORS 657A.706 (1)(g). Each selected community agency shall distribute a substantial portion of the moneys to participating child care providers that are home-based businesses.

(b) Distributions shall be based on the actual costs of providing quality, affordable child care in the community for which distributions are being made, including training costs, operating costs and wages.

(4) For the purpose of making distributions to child care providers, a selected community agency shall identify child care providers in the community that meet the requirements of ORS 657A.718. The selected community agency may develop a process through which child care providers apply to receive distributions of moneys from contributions made by taxpayers.

SECTION 72. ORS 657A.718 is amended to read:

657A.718. (1) Each selected community agency shall select participating child care providers that meet the following requirements:

(a) If a home-based business, the provider must enter into an agreement with the community agency to continue to provide child care services for at least an additional two years.

(b) If a home-based business, the provider must serve at least two families that have incomes that are 85 percent or less of the median income for the region. If a center, at least 25 percent of the families the provider serves must have incomes that are 85 percent or less of the median income for the region.

(c) The provider must accept children for whom child care is paid for through a Department of Human Services subsidy.

(d) The provider and the employees of the provider must provide high quality child care.

(e) The provider, if the provider is an individual, and the employees of the provider must comply with

[*Child Care Division*] **Early Learning Council** rules and requirements for registration or certification.

(f) The provider must maintain adequate liability insurance, financial records and parent policies and contracts, and permit the selected community agency to conduct visits.

(g) For care provided to children of families whose income does not exceed the level established by the selected community agency under ORS 657A.715 (2)(g), the provider must agree to limit the total child care fees charged to a family to a percentage established by the [*Child Care Division*] **Early Learning Council** by rule.

(2) In selecting participating child care providers, selected community agencies must give preference to providers that provide child care to low and moderate income families.

SECTION 73. ORS 657A.992, as amended by section 121, chapter 37, Oregon Laws 2012, is amended to read:

657A.992. (1) In addition to any other provision of law or rule adopted pursuant to ORS 657A.260 for enforcement of the provisions of ORS chapter 657A, the **Office of Child Care** [*Division*] may suspend or revoke a certification or registration issued under ORS 657A.030 and 657A.250 to 657A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:

(a) Any of the provisions of ORS 657A.030 and 657A.250 to 657A.450;

(b) The terms and conditions of a certification or registration issued under ORS 657A.030 and 657A.250 to 657A.450; or

(c) Any rule of the [*division*] **Early Learning Council** adopted under ORS 657A.030 and 657A.250 to 657A.450.

(2) The [*division*] **Early Learning Council** shall adopt by rule a schedule establishing the civil penalties that may be imposed under this section. The schedule must provide for categories of violations for which a penalty may be imposed, including “nonserious” and “serious” to be defined by the [*division*] **council** by rule under ORS 657A.260.

(3) The [*division*] **office** must issue a written warning for a nonserious or serious violation before assessing a civil penalty under this section. The written warning must prescribe a reasonable time in which to correct a violation.

(4) The [*division*] **office** may not impose a civil penalty of more than \$100 for a first violation.

(5) The [*division*] **office** may not impose a civil penalty for a subsequent violation that exceeds the penalty imposed for the previous violation by more than \$100. Penalties imposed under this subsection may not exceed \$500 per violation, or \$1,000 total for multiple violations per quarter.

(6) Notwithstanding any other provision of this section, the maximum civil penalty that may be imposed:

(a) For violation of ORS 657A.330 by a registered family child care home provider is \$100.

(b) For violation of ORS 657A.280 by an operator of a child care facility that is not a child care center is \$200.

(c) For violation of ORS 657A.280 by an operator of a child care facility that is a child care center is \$500.

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

(8) All moneys received under this section shall be deposited in the Child Care Fund established under ORS 657A.010 (4) and may be used for the administration of ORS 181.537, 657A.030 and 657A.250 to 657A.450.

SECTION 74. ORS 307.145 is amended to read:

307.145. (1) If not otherwise exempt by law, upon compliance with ORS 307.162, the child care facilities, schools, academies and student housing accommodations, owned or being purchased by incorporated eleemosynary institutions or by incorporated religious organizations, used exclusively by such institutions or organizations for or in immediate connection with educational purposes, are exempt from taxation.

(2) Property described in subsection (1) of this section which is exclusively for or in the immediate connection with educational purposes shall continue to be exempt when leased to a political subdivision of the State of Oregon, or to another incorporated eleemosynary institution or incorporated religious organization for an amount not to exceed the cost of repairs, maintenance and upkeep.

(3)(a) As used in this section, “child care facility” means a child care center certified by the [*Child Care Division of the Employment Department*] **Office of Child Care** under ORS 657A.280 to provide educational child care.

(b) Before an exemption for a child care facility is allowed under this section, in addition to any other information required under ORS 307.162, the statement shall:

(A) Describe the property and declare or be accompanied by proof that the corporation is an eleemosynary institution or religious organization.

(B) Declare or be accompanied by proof that the [*division*] **office** has issued the child care facility a certification to provide educational child care.

(C) Be signed by the taxpayer subject to the penalties for false swearing.

SECTION 75. ORS 307.490 is amended to read:

307.490. (1) In lieu of real and personal property taxes, each nonprofit corporation eligible for a tax exemption under ORS 307.485 shall pay to the treasurer of the county on or before November 15 an amount equal to 10 percent of the rentals for the period ending the preceding October 15, submitting with the remittance a form supplied by the Department of Revenue stating the rental and certifying compliance with the requirements of the State Fire

Marshal, the local health officer or [Child Care Division] the Office of Child Care, as applicable.

(2) The treasurer shall, with the assistance of the assessor, allocate the money received by the treasurer under subsection (1) of this section, to the districts in which the exempt property is located in the same proportion that the tax rate for the current tax year for each district bears to the total tax rate for all districts.

(3) The moneys received by the district shall be considered as a budget resource for the next ensuing fiscal year.

SECTION 76. ORS 307.500 is amended to read:

307.500. (1) Immediately upon receipt of the claim or any subsequent rental statement, the county assessor shall promptly transmit one copy of the claim to the Department of Revenue. The rent subsequently reported for the eligible child care facility or eligible farm labor camp for which the claim is made is subject to verification and modification by the Department of Revenue.

(2) The county assessor shall promptly transmit one copy of each claim or statement for exemption to the State Fire Marshal for verification of compliance with applicable laws and rules and regulations relating to safety from fire. If the State Fire Marshal refuses such verification, the county assessor shall deny the claim and cause the nonprofit corporation to be billed for the real and personal property taxes it would otherwise be liable to pay.

(3) The county assessor shall promptly transmit one copy of each claim or statement for exemption of an eligible farm labor camp to the appropriate authority under the Oregon Safe Employment Act for verification of compliance with the health code for farm labor camps. That authority shall refuse to verify compliance if the farm labor camp does not comply with the health code applicable to it or if access to the camp for inspection has been denied the county assessor or the authorized representative of the county assessor. If verification is refused, the county assessor shall deny the claim and cause the nonprofit corporation to be billed for the real and personal property taxes it would otherwise be liable to pay.

(4) If the claim or statement or any part thereof applies to property used for an eligible child care facility, the county assessor shall promptly transmit a copy to the Office of Child Care [Division] for verification of certification. If the [division] office refuses such verification, the county assessor shall deny the claim and cause the nonprofit corporation to be billed for the real and personal property taxes it would otherwise be liable to pay.

SECTION 77. ORS 315.204 is amended to read:

315.204. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed to a resident employer or to a corporation that is an employer for amounts paid or incurred during the taxable year by the employer for depend-

ent care assistance actually provided to an employee if the assistance is furnished pursuant to a program which meets the requirements of section 129(d) of the Internal Revenue Code and if the employer has received a certificate as provided in subsection (2) of this section.

(2)(a) Each employer that elects to receive a credit allowed under subsection (1) of this section must submit an application to the [Child Care Division of the Employment Department] Office of Child Care each year the employer wishes to receive the credit. The [Child Care Division] Early Learning Council shall prescribe by rule the form of the application and the information required to be given on the application.

(b) The Office of Child Care [Division] shall issue a certificate to each employer that submits an application under this subsection.

(3) The amount of the credit allowed under subsection (1) of this section shall be 50 percent of the amount so paid or incurred by the employer during the taxable year but shall not exceed \$2,500 of dependent care assistance actually provided to the employee.

(4)(a) A credit against the taxes otherwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) shall be allowed to a resident employer, or to a corporation that is an employer, based upon amounts paid or incurred by the employer during the taxable year to provide information and referral services to assist employees of the employer employed within this state to obtain dependent care.

(b) The amount of the credit allowed under this subsection shall be 50 percent of the amounts paid or incurred during the taxable year.

(5) No amount paid or incurred during the taxable year of an employer in providing dependent care assistance to any employee shall qualify for the credit allowed under subsection (1) of this section if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(6) No amount paid or incurred by an employer to provide dependent care assistance to an employee shall qualify for the credit allowed under subsection (1) of this section if the amount paid or incurred is paid or incurred pursuant to a salary reduction plan or is not paid or incurred for services performed within this state.

(7) If the credit allowed under subsection (1) or (4) of this section is claimed, the amount of any deduction allowed or allowable under ORS chapter 316, 317 or 318 for the amount that qualifies for the credit (or upon which the credit is based) shall be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section shall be made at the time of filing the tax return in accordance with any rules adopted by the Department of Revenue.

(8) The amount upon which the credit allowed under subsection (1) of this section is based shall not be included in the gross income of the employee to

whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section shall not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of ORS 316.162, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. Amounts excluded under this subsection shall not qualify as expenses for which a credit is allowed to the employee under ORS 316.078.

(9) A nonresident shall be allowed the credit allowed under subsection (1) or (4) of this section. The credit shall be computed in the same manner and be subject to the same limitations as the credit granted to a resident.

(10) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(12) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(13) For purposes of the credit allowed under subsection (1) or (4) of 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 an employer carrying on a business, trade, occupation or profession in this state.

(14) In the case of an on-site facility, in accordance with any rules adopted by the department, the amount upon which the credit allowed under subsection (1) of this section is based, with respect to any dependent, shall be based upon utilization and the value of the services provided.

SECTION 78. 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 lesser 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 657A.030 and 657A.250 to 657A.450 by the **Office of Child Care** [Division] 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 [Division]** under ORS 657A.030 and 657A.250 to 657A.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 [Division]** 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 [Division]** 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 79. ORS 315.213 is amended to read:

315.213. (1) A credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for certified contributions made to the **Office of Child Care [Division]** under ORS 657A.706.

(2) The amount of a tax credit available to a taxpayer for a tax year under this section shall equal the amount stated in the tax credit certificate received under ORS 657A.706.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year in which the credit is claimed.

(4) If the amount claimed as a credit under this section is allowed as a deduction for federal tax purposes, the amount allowed as a credit under this section shall be added to federal taxable income for Oregon tax purposes.

(5) A credit under this section may be claimed by a nonresident or part-year resident without proration.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) The definitions in ORS 657A.700 apply to this section.

SECTION 79a. ORS 326.604 is amended to read:

326.604. (1) **As used in this section, "care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, youth or persons with disabilities.**

(2) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Education may require the fingerprints of a person who:

[(1)(a)] (a)(A) Is employed or applying for employment by the department; or

[(b)] **(B)** Provides services or seeks to provide services to the department as a contractor, **subcontractor**, vendor or volunteer; and

[(2)] **(b)** Is, or will be, working or providing services in a position:

[(a)] **(A)** In which the person [has] **may have** unsupervised access to children;

(B) In which the person may have contact with recipients of care;

[(b)] **(C)** In which the person has access to confidential or personal information about children, as may be further defined by the State Board of Education by rule;

[(c)] **(D)** In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

[(d)] **(E)** In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

[(e)] **(F)** That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the department;

[(f)] **(G)** That has mailroom duties as the primary duty or job function of the position;

[(g)] **(H)** In which the person has responsibility for auditing the department;

[(h)] **(I)** That has personnel or human resources functions as one of the position's primary responsibilities; or

[(i)] **(J)** In which the person has access to personal information about employees or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information.

(3) In addition to the authority granted by subsection (2) of this section and for the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Education may require the fingerprints of a person for the purposes of licensing, certifying, registering or otherwise regulating or administering programs under the authority of the department.

(4) The Department of Education may make fitness determinations based on criminal offender records and information furnished by the Federal Bureau of Investigation through the Department of State Police as provided by ORS 181.534.

SECTION 80. ORS 343.499, as amended by section 41, chapter 37, Oregon Laws 2012, is amended to read:

343.499. (1)(a) There is created the State Interagency Coordinating Council.

(b) The Governor shall appoint members of the council from a list of eligible appointees provided by the council and agencies described in subsection (2) of this section and shall ensure that the membership of the council reasonably represents the population of this state.

(c) The Governor shall designate one member of the council to serve as the chairperson, or if the Governor chooses not to name a chairperson, the council may elect one of its members to serve as chairperson. However, any member of the council who represents the Department of Education may not serve as the chairperson of the council.

(2) The membership of the council shall be composed as follows:

(a) At least 20 percent of the council members shall be parents, including minority parents, of preschool children with disabilities or of children with disabilities who are 12 years of age or younger who have knowledge of or experience with programs for infants and toddlers with disabilities. At least one council member shall be a parent of an infant or toddler with a disability or of a child with a disability who is six years of age or younger.

(b) At least 20 percent of the council members shall be public or private providers of early intervention and early childhood special education services.

(c) At least one council member shall be a member of the Legislative Assembly.

(d) At least one council member shall be involved in personnel preparation.

(e) At least one council member shall represent the Department of Human Services.

(f) At least one council member shall represent the federal Head Start program.

(g) At least one council member shall represent the [Child Care Division of the Employment Department] **Office of Child Care.**

(h) At least one council member shall represent the Department of Education.

(i) At least one council member shall represent the Department of Consumer and Business Services.

(j) At least one council member shall represent the Early Learning [Council] **Division.**

(k) At least one council member shall represent the Child Development and Rehabilitation Center of the Oregon Health and Science University.

(L) At least one council member shall be a member of the State Advisory Council for Special Education created under ORS 343.287.

(m) At least one council member shall be a representative designated by the state coordinator for homeless education.

(n) At least one council member shall represent the state child welfare agency responsible for foster care.

(o) At least one council member shall represent the state agency responsible for children's mental health.

(p) At least one council member shall be from the Oregon Health Authority.

(q) The council may include other members appointed by the Governor, including but not limited to one representative from the United States Bureau of Indian Affairs or, where there is no school operated or funded by the bureau, from the Indian Health Service or the tribe or tribal council.

(3) An individual appointed to represent a state agency that is involved in the provision of or payment for services for preschool children with disabilities under subsection (2)(e) and (h) to (k) of this section shall have sufficient authority to engage in making and implementing policy on behalf of the agency.

(4) The State Interagency Coordinating Council shall:

(a) Advise the Superintendent of Public Instruction, the State Board of Education and the Early Learning Council on unmet needs in the early childhood special education and early intervention programs for preschool children with disabilities, review and comment publicly on any rules proposed by the State Board of Education and the distribution of funds for the programs and assist the state in developing and reporting data on and evaluations of the programs and services.

(b) Advise and assist the represented public agencies regarding the services and programs they provide to preschool children with disabilities and their families, including public comments on any proposed rules affecting the target population and the distribution of funds for such services, and assist each agency in developing services that reflect the overall goals for the target population as adopted by the council.

(c) Advise and assist the Department of Education and other state agencies in the development and implementation of the policies that constitute the statewide system.

(d) Assist all appropriate public agencies in achieving the full participation, coordination and cooperation for implementation of a statewide system that includes but is not limited to:

(A) Seeking information from service providers, service coordinators, parents and others about any federal, state or local policies that impede timely service delivery; and

(B) Taking steps to ensure that any policy problems identified under subparagraph (A) of this paragraph are resolved.

(e) Advise and assist the Department of Education in identifying the sources of fiscal and other support for preschool services, assigning financial responsibility to the appropriate agencies and ensuring that the provisions of interagency agreements under ORS 343.511 are carried out.

(f) Review and comment on each agency's services and policies regarding services for preschool children with disabilities, or preschool children who are at risk of developing disabling conditions, and their families to the maximum extent possible to assure cost-effective and efficient use of resources.

(g) To the extent appropriate, assist the Department of Education in the resolution of disputes.

(h) Advise and assist the Department of Education in the preparation of applications and amendments thereto.

(i) Advise and assist the Department of Education regarding the transition of preschool children with disabilities.

(j) Prepare and submit an annual report to the Governor, **the Early Learning System Director, the Early Learning Council, the Legislative Assembly** and [to] the United States Secretary of Education on the status of early intervention programs operated within this state.

(5) The council may advise appropriate agencies about integration of services for preschool children with disabilities and at-risk preschool children.

(6) Terms of office for council members shall be three years, except that:

(a) The representative from the State Advisory Council for Special Education shall serve a one-year term; and

(b) The representatives from other state agencies and the representative from the Legislative Assembly shall serve indefinite terms.

(7) Subject to approval by the Governor, the council may use federal funds appropriated for this purpose and available to the council to:

(a) Conduct hearings and forums;

(b) Reimburse nonagency council members under ORS 292.495 for attending council meetings, for performing council duties, and for necessary expenses, including child care for parent members;

(c) Pay compensation to a council member if the member is not employed or if the member must forfeit wages from other employment when performing official council business;

(d) Hire staff; and

(e) Obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions.

(8) Except as provided in subsection (7) of this section, council members shall serve without compensation.

(9) The Department of Education shall provide clerical and administrative support, including staff, to the council to carry out the performance of the council's function as described in this section.

(10) The council shall meet at least quarterly. The meetings shall be announced publicly and, to the extent appropriate, be open and accessible to the general public.

(11) No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law.

SECTION 81. ORS 343.507, as amended by section 42, chapter 37, Oregon Laws 2012, is amended to read:

343.507. (1) Each contractor for early childhood special education and early intervention services shall assist in the development of a local early

intervention interagency advisory council in every county within the contractor's service area.

(2) Each local early intervention interagency advisory council shall include as members at least 20 percent parents of preschool children with disabilities, 20 percent providers of early childhood special education and early intervention services or other services to preschool children with disabilities, a representative of the Early Learning Council and representatives from public and private agencies that serve young children and their families, including but not limited to Head Start and Oregon prekindergartens, community child care, the [*Child Care Division of the Employment Department*] **Office of Child Care**, local school districts, education service districts, Department of Education regional special education programs, community mental health programs, community developmental disabilities programs, Department of Human Services health programs, child welfare programs and public assistance programs, Indian education agencies, migrant programs serving young children and community colleges.

(3) Each local early intervention interagency advisory council shall select its own chairperson and vice chairperson and fix the duties of its officers.

(4) The department shall establish procedures pursuant to rules of the State Board of Education for seeking and considering local council advice regarding the selection of contractors, coordination of services and procedures for local resolution of disputes.

SECTION 82. ORS 419B.005, as amended by section 60, chapter 37, Oregon Laws 2012, and section 1, chapter 92, Oregon Laws 2012, 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 or to patronize a prostitute, as defined in ORS chapter 167.

(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, 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 is under 18 years of age.

(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) "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 352.383.

(e) A county juvenile department.

(5) "Public or private official" means:

(a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, 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, Early Learning [*Council*] **Division**, Youth Development Council, [*Child Care Division of the Employment Department*] **Office of Child Care**, the Oregon Youth Authority,

a county health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency 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 657A.030 and 657A.250 to 657A.450.
- (s) Member of the Legislative Assembly.
- (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 657A.255.
- (z) An operator of a school-age recorded program under ORS 657A.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) Employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
 - (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide 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.

SECTION 83. ORS 419B.020 is amended to read:

419B.020. (1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the **Office of Child Care** [*Division*] if the alleged child abuse occurred in a child care facility as defined in ORS 657A.250.

(2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility:

(a) The department and the law enforcement agency shall jointly determine the roles and responsibilities of the department and the agency in their respective investigations; and

(b) The department and the agency shall each report the outcomes of their investigations to the **Office of Child Care** [*Division*].

(3) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(4) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(5)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(6) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disap-

pear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(7) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (6) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035.

SECTION 84. ORS 419B.035, as amended by section 4, chapter 348, Oregon Laws 2009, and section 2, chapter 3, Oregon Laws 2012, is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 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, at the request of the physician, regarding any child brought to the physician or coming before the physician 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 youth offenders 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** [*Division*] for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;

(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 192.410 to 192.505; and

(j) The [*Child Care Division of the Employment Department*] **Office of Child Care** for purposes of ORS 657A.030 (8)(g).

(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.

(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 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 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 or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board or physician. 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 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) 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) 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 181.010.

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

SECTION 85. ORS 646A.504 is amended to read: 646A.504. As used in ORS 646A.500 to 646A.514:

(1) "Commercial user" means any person, firm, corporation, association or nonprofit corporation, or

any agent or employee thereof, including child care facilities or family child care homes certified or registered by the **Office of Child Care** [Division] under ORS 657A.250 to 657A.450, who:

(a) Deals in cribs of the kind governed by ORS 646A.500 to 646A.514;

(b) By virtue of the person's occupation, purports to have knowledge or skill peculiar to the cribs governed by ORS 646A.500 to 646A.514; or

(c) Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

(2) "Crib" means:

(a) Any full-size crib as that term is defined in 16 C.F.R. 1508.3; or

(b) Any nonfull-size crib as that term is defined in 16 C.F.R. 1509.2(b).

(3) "Individual" means a natural person who is not a commercial user of cribs.

(4) "Infant" means an individual who is less than three years of age.

SECTION 86. Section 130, chapter 37, Oregon Laws 2012, is amended to read:

Sec. 130. (1) In addition to the minimum standards established for child care facilities and the operation of child care facilities under ORS 657A.260 and subject to available funds, the [Child Care Division of the Employment Department] **Office of Child Care**, under the direction and with the approval of the Early Learning Council, shall initiate development of a tiered quality rating and improvement system for child care facilities.

(2) The tiered quality rating and improvement system implemented under this section shall:

(a) Establish a set of progressively higher standards that are used to evaluate the quality of an early learning and development program and to support program improvement.

(b) Consist of the following components:

(A) Tiered standards that define a progression of quality for early learning and development programs.

(B) Monitoring of programs to evaluate quality based on established standards.

(C) Support for programs and providers of programs to meet tiered quality standards, including training, technical assistance and financial incentives.

(D) Program quality ratings that are publicly available.

STATE BOARD OF EDUCATION

SECTION 87. ORS 326.021 is amended to read: 326.021. (1) The State Board of Education shall consist of:

(a) The State Treasurer, or the designee of the State Treasurer;

(b) The Secretary of State, or the designee of the Secretary of State; [and]

(c) **One member of the Oregon Education Investment Board; and**

[(c)] (d) [Seven] Six members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. A person appointed under this paragraph may not be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and *[two members] one member* from the state at large. An appointed member may not be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove appointed members of the State Board of Education for cause at any time after notice and public hearing.

(4) The State Treasurer and the Secretary of State, or the designee of the State Treasurer or Secretary of State, are nonvoting, ex officio members of the board.

SECTION 88. ORS 326.021, as amended by section 87 of this 2013 Act, is amended to read:

326.021. (1) The State Board of Education shall consist of:

(a) The State Treasurer, or the designee of the State Treasurer;

(b) The Secretary of State, or the designee of the Secretary of State; **and**

[(c) One member of the Oregon Education Investment Board; and]

[(d)] (c) [Six] Seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. A person appointed under this paragraph may not be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and *[one member] two members* from the state at large. An appointed member may not be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove appointed members of the State Board of Education for cause at any time after notice and public hearing.

(4) The State Treasurer and the Secretary of State, or the designee of the State Treasurer or Secretary of State, are nonvoting, ex officio members of the board.

SECTION 89. Section 10, chapter 519, Oregon Laws 2011, as amended by section 1, chapter 37, Oregon Laws 2012, is amended to read:

Sec. 10. (1) Sections 1, 2, 3, 5, 6 and 7, chapter 519, Oregon Laws 2011, are repealed on March 15, 2016.

(2) **The amendments to ORS 326.021 by section 88 of this 2013 Act become operative on March 15, 2016.**

RELIEF NURSERIES

SECTION 90. Section 104, chapter 37, Oregon Laws 2012, is amended to read:

Sec. 104. (1) The amendments to statutes by sections *[83 to 102 of this 2012 Act] 83 to 91 and 93 to 102, chapter 37, Oregon Laws 2012*, and the repeal of statutes by section 103 *[of this 2012 Act]*, **chapter 37, Oregon Laws 2012**, become operative on January 1, 2014.

(2) **The amendments to ORS 417.788 by section 92, chapter 37, Oregon Laws 2012, become operative on the effective date of this 2013 Act.**

MISCELLANEOUS PROVISIONS

SECTION 91. Sections 1a to 1g, 20, 28, 36 to 37f and 39 of this 2013 Act and the amendments to ORS 131A.360, 131A.365, 307.145, 307.490, 307.500, 315.204, 315.208, 315.213, 326.021, 326.604, 329.075, 329.156, 329.165, 329.170, 329.175, 329.183, 329.185, 329.190, 329.195, 329.200, 343.499, 343.507, 417.787, 417.788, 417.790, 417.793, 417.795, 418.975, 419B.005, 419B.020, 419B.035, 458.525, 609.652, 646A.504, 657A.010, 657A.020, 657A.030, 657A.180, 657A.190, 657A.250, 657A.252, 657A.255, 657A.257, 657A.260, 657A.263, 657A.270, 657A.275, 657A.280, 657A.290, 657A.300, 657A.310, 657A.330, 657A.350, 657A.360, 657A.370, 657A.390, 657A.400, 657A.410, 657A.420, 657A.450, 657A.490, 657A.700, 657A.703, 657A.706, 657A.709, 657A.712, 657A.715, 657A.718 and 657A.992 and sections 10, 68b and 130, chapter 37, Oregon Laws 2012, by sections 2 to 12, 19, 21 to 27, 29 to 35, 38 and 40 to 87 of this 2013 Act become operative on July 1, 2013.

SECTION 92. The unit captions used in this 2013 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 2013 Act.

SECTION 93. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Approved by the Governor July 19, 2013
Filed in the office of Secretary of State July 22, 2013
Effective date July 19, 2013