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HOUSE BILL 2964

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Kagi, Talcott, Walsh, Quall, Haler, Shabro, Fromhold, Kessler, Hunt, Appleton, Lantz, Darneille, Kenney, Chase, Hasegawa, Sells, Roberts, Hunter, Moeller, McCoy, Santos, Green and Simpson; by request of Governor Gregoire

Read first time 01/17/2006. Referred to Committee on Children & Family Services.

1 AN ACT Relating to a department of early learning; amending RCW  
2 43.17.010, 42.17.2401, 41.04.385, 74.13.085, 74.13.0902, 74.13.0903,  
3 74.13.098, 74.13.099, 74.15.350, 74.12.340, 28A.215.110, 28A.215.120,  
4 43.63A.066, 74.15.030, 74.15.100, and 74.15.130; reenacting and  
5 amending RCW 43.17.020 and 74.15.020; adding a new section to chapter  
6 41.06 RCW; adding a new chapter to Title 43 RCW; creating new sections;  
7 recodifying RCW 74.13.097, 74.13.098, 74.13.099, 74.15.063, 74.15.310,  
8 74.15.320, 74.15.330, 74.15.340, 74.15.350, 28A.215.100, 28A.215.110,  
9 28A.215.120, 28A.215.130, 28A.215.140, 28A.215.150, 28A.215.160,  
10 28A.215.170, 28A.215.180, 28A.215.190, 28A.215.200, 28A.215.900,  
11 28A.215.904, 28A.215.906, and 28A.215.908; prescribing penalties; and  
12 providing an effective date.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 PART 1

15 DEPARTMENT OF EARLY LEARNING CREATED

16 NEW SECTION. **Sec. 101.** (1) The legislature recognizes that:

17 (a) Parents are their children's first and most important teachers  
18 and decision makers;

1 (b) Research across disciplines now demonstrates that what happens  
2 in the earliest years makes a critical difference in children's  
3 readiness to succeed in school and life;

4 (c) Washington's competitiveness in the global economy requires a  
5 world-class education system that starts early and supports life-long  
6 learning;

7 (d) Washington state currently makes substantial investments in  
8 voluntary child care and early learning services and supports, but  
9 because services are fragmented across multiple state agencies, and  
10 early learning providers lack the supports and incentives needed to  
11 improve the quality of services they provide, many parents have  
12 difficulty accessing high quality early learning services;

13 (e) A more cohesive and integrated voluntary early learning system  
14 would result in greater efficiencies for the state, increased  
15 partnership between the state and the private sector, improved access  
16 to high quality early learning services, and better employment and  
17 early learning outcomes for families and all children.

18 (2) The legislature finds that the early years of a child's life  
19 are critical to the child's healthy brain development and that the  
20 quality of caregiving during the early years can significantly impact  
21 the child's intellectual, social, and emotional development.

22 (3) The purpose of this chapter is:

23 (a) To establish the department of early learning, the purpose of  
24 which is to coordinate and consolidate child care and early learning  
25 programs;

26 (b) To safeguard the health, safety, and well-being of children  
27 receiving child care and early learning services, which is paramount  
28 over the right of any person to provide care;

29 (c) To promote the development of a sufficient number and variety  
30 of adequate child care and early learning facilities, both public and  
31 private; and

32 (d) To license agencies and to assure the users of such agencies,  
33 their parents, the community at large and the agencies themselves that  
34 adequate minimum standards are maintained by all child care and early  
35 learning facilities.

36 NEW SECTION. **Sec. 102.** The definitions in this section apply  
37 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Agency" means any person, firm, partnership, association,  
2 corporation, or facility that provides child care and early learning  
3 services outside a child's own home and includes the following  
4 irrespective of whether there is compensation to the agency:

5 (a) "Child day care center" means an agency that regularly provides  
6 child day care and early learning services for a group of children for  
7 periods of less than twenty-four hours;

8 (b) "Family day care provider" means a child day care provider who  
9 regularly provides child day care and early learning services for not  
10 more than twelve children in the provider's home in the family living  
11 quarters;

12 (c) "Service provider" means the entity that operates a community  
13 facility.

14 (2) "Agency" does not include the following:

15 (a) Persons related to the child in the following ways:

16 (i) Any blood relative, including those of half-blood, and  
17 including first cousins, nephews or nieces, and persons of preceding  
18 generations as denoted by prefixes of grand, great, or great-great;

19 (ii) Stepfather, stepmother, stepbrother, and stepsister;

20 (iii) A person who legally adopts a child or the child's parent as  
21 well as the natural and other legally adopted children of such persons,  
22 and other relatives of the adoptive parents in accordance with state  
23 law; or

24 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
25 subsection (2)(a), even after the marriage is terminated;

26 (b) Persons who are legal guardians of the child;

27 (c) Persons who care for a neighbor's or friend's child or  
28 children, with or without compensation, where the person providing care  
29 for periods of less than twenty-four hours does not conduct such  
30 activity on an ongoing, regularly scheduled basis for the purpose of  
31 engaging in business, which includes, but is not limited to,  
32 advertising such care;

33 (d) Parents on a mutually cooperative basis exchange care of one  
34 another's children;

35 (e) Nursery schools or kindergartens that are engaged primarily in  
36 educational work with preschool children and in which no child is  
37 enrolled on a regular basis for more than four hours per day;

1 (f) Schools, including boarding schools, that are engaged primarily  
2 in education, operate on a definite school year schedule, follow a  
3 stated academic curriculum, accept only school-age children, and do not  
4 accept custody of children;

5 (g) Seasonal camps of three months' or less duration engaged  
6 primarily in recreational or educational activities;

7 (h) Facilities providing care to children for periods of less than  
8 twenty-four hours whose parents remain on the premises to participate  
9 in activities other than employment;

10 (i) Any agency having been in operation in this state ten years  
11 before June 8, 1967, and not seeking or accepting moneys or assistance  
12 from any state or federal agency, and is supported in part by an  
13 endowment or trust fund;

14 (j) An agency operated by any unit of local, state, or federal  
15 government or an agency, located within the boundaries of a federally  
16 recognized Indian reservation, licensed by the Indian tribe;

17 (k) An agency located on a federal military reservation, except  
18 where the military authorities request that such agency be subject to  
19 the licensing requirements of this chapter.

20 (3) "Department" means the department of early learning.

21 (4) "Director" means the director of the department.

22 (5) "Enforcement action" means denial, suspension, revocation,  
23 modification, or nonrenewal of a license pursuant to section 311(1) of  
24 this act or assessment of civil monetary penalties pursuant to section  
25 311(3) of this act.

26 (6) "Probationary license" means a license issued as a disciplinary  
27 measure to an agency that has previously been issued a full license but  
28 is out of compliance with licensing standards.

29 (7) "Requirement" means any rule, regulation, or standard of care  
30 to be maintained by an agency.

31 NEW SECTION. **Sec. 103.** (1) The department of early learning is  
32 created as an executive branch agency. The department is vested with  
33 all powers and duties transferred to it under this chapter and such  
34 other powers and duties as may be authorized by law.

35 (2) The primary duties of the department are to set state early  
36 learning policy and to coordinate, consolidate, and integrate child

1 care and early learning programs in order to administer programs and  
2 funding as efficiently as possible. The department's duties include,  
3 but are not limited to, the following:

4 (a) To have lead responsibility for the state's early learning  
5 policy;

6 (b) To improve parent education and support;

7 (c) To carry out activities to improve the quality of early  
8 learning opportunities for young children including activities in  
9 cooperation with the public-private partnership;

10 (d) To administer child care and early learning programs;

11 (e) To standardize internal financial audits, oversight visits,  
12 performance benchmarks, and licensing criteria, so that programs can  
13 function in an integrated fashion;

14 (f) To assist in the formation of a public-private partnership and  
15 cooperate with that partnership in pursuing its goals; and

16 (g) To work cooperatively and in coordination with the early  
17 learning council.

18 NEW SECTION. **Sec. 104.** (1) The executive head and appointing  
19 authority of the department is the director. The director shall be  
20 appointed by the governor and shall serve at the pleasure of the  
21 governor. The director shall be paid a salary to be fixed by the  
22 governor in accordance with RCW 43.03.040. If a vacancy occurs, it  
23 shall be filled by appointment by the governor.

24 (2) The director may employ staff members, who shall be exempt from  
25 chapter 41.06 RCW, and any additional staff members as are necessary to  
26 administer this chapter. The director may delegate any power or duty  
27 vested in him or her by this chapter, including authority to make final  
28 decisions and enter final orders in hearings conducted under chapter  
29 34.05 RCW.

30 NEW SECTION. **Sec. 105.** It is the intent of the legislature  
31 wherever possible to place the internal affairs of the department under  
32 the control of the director in order that the director may institute  
33 therein the flexible, alert, and intelligent management of its business  
34 that changing contemporary circumstances require. Therefore, whenever  
35 the director's authority is not specifically limited by law, the  
36 director has complete charge and supervisory powers over the

1 department. The director may create such administrative structures as  
2 the director considers appropriate, except as otherwise specified by  
3 law. The director may employ such assistants and personnel as  
4 necessary for the general administration of the department. This  
5 employment shall be in accordance with the state civil service law,  
6 chapter 41.06 RCW, except as otherwise provided.

7 NEW SECTION. **Sec. 106.** The director may appoint such advisory  
8 committees or councils as may be required by any federal legislation as  
9 a condition to the receipt of federal funds by the department. The  
10 director may also appoint statewide committees or councils on such  
11 subject matters as are or come within the department's  
12 responsibilities. The committees or councils shall be constituted as  
13 required by federal law or as the director may determine.

14 Members of such state advisory committees or councils may be paid  
15 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

16 NEW SECTION. **Sec. 107.** In furtherance of the policy of the state  
17 to cooperate with the federal government in all of the programs under  
18 the jurisdiction of the department, such rules as may become necessary  
19 to entitle the state to participate in federal funds may be adopted,  
20 unless expressly prohibited by law. Any internal reorganization  
21 carried out under the terms of this chapter shall meet federal  
22 requirements that are a necessary condition to state receipt of federal  
23 funds. Any section or provision of law dealing with the department  
24 that may be susceptible to more than one construction shall be  
25 interpreted in favor of the construction most likely to comply with  
26 federal laws entitling this state to receive federal funds for the  
27 various programs of the department.

28 NEW SECTION. **Sec. 108.** (1) In addition to other duties under this  
29 chapter, the director shall provide leadership and active participation  
30 in the creation and governance of a nongovernmental public-private  
31 partnership focused on supporting government's investments in early  
32 learning and ensuring that every child in the state is prepared to  
33 succeed in school and in life.

34 (2) In addition to other powers granted to the director, the  
35 director may:

1 (a) Enter into contracts on behalf of the department to carry out  
2 the purposes of this chapter;

3 (b) Accept gifts, grants, or other funds for the purposes of this  
4 chapter; and

5 (c) Adopt, in accordance with chapter 34.05 RCW, rules necessary to  
6 implement this chapter, including rules governing child day care and  
7 early learning programs under this chapter.

8 NEW SECTION. **Sec. 109.** A new section is added to chapter 41.06  
9 RCW to read as follows:

10 In addition to the exemptions under RCW 41.06.070, the provisions  
11 of this chapter shall not apply in the department of early learning to  
12 the director, the director's personal secretary, and any other exempt  
13 staff members provided for in section 104(2) of this act.

14 **Sec. 110.** RCW 43.17.010 and 2005 c 333 s 10 are each amended to  
15 read as follows:

16 There shall be departments of the state government which shall be  
17 known as (1) the department of social and health services, (2) the  
18 department of ecology, (3) the department of labor and industries, (4)  
19 the department of agriculture, (5) the department of fish and wildlife,  
20 (6) the department of transportation, (7) the department of licensing,  
21 (8) the department of general administration, (9) the department of  
22 community, trade, and economic development, (10) the department of  
23 veterans affairs, (11) the department of revenue, (12) the department  
24 of retirement systems, (13) the department of corrections, (14) the  
25 department of health, (15) the department of financial institutions,  
26 (~~and~~) (16) the department of archaeology and historic preservation,  
27 and (17) the department of early learning, which shall be charged with  
28 the execution, enforcement, and administration of such laws, and  
29 invested with such powers and required to perform such duties, as the  
30 legislature may provide.

31 **Sec. 111.** RCW 43.17.020 and 2005 c 333 s 11 and 2005 c 319 s 2 are  
32 each reenacted and amended to read as follows:

33 There shall be a chief executive officer of each department to be  
34 known as: (1) The secretary of social and health services, (2) the  
35 director of ecology, (3) the director of labor and industries, (4) the

1 director of agriculture, (5) the director of fish and wildlife, (6) the  
2 secretary of transportation, (7) the director of licensing, (8) the  
3 director of general administration, (9) the director of community,  
4 trade, and economic development, (10) the director of veterans affairs,  
5 (11) the director of revenue, (12) the director of retirement systems,  
6 (13) the secretary of corrections, (14) the secretary of health, (15)  
7 the director of financial institutions, (~~and~~) (16) the director of  
8 the department of archaeology and historic preservation, and (17) the  
9 director of early learning.

10 Such officers, except the director of fish and wildlife, shall be  
11 appointed by the governor, with the consent of the senate, and hold  
12 office at the pleasure of the governor. The director of fish and  
13 wildlife shall be appointed by the fish and wildlife commission as  
14 prescribed by RCW 77.04.055.

15 **Sec. 112.** RCW 42.17.2401 and 2005 c 424 s 17 are each amended to  
16 read as follows:

17 For the purposes of RCW 42.17.240, the term "executive state  
18 officer" includes:

19 (1) The chief administrative law judge, the director of  
20 agriculture, the administrator of the Washington basic health plan, the  
21 director of the department of services for the blind, the director of  
22 the state system of community and technical colleges, the director of  
23 community, trade, and economic development, the secretary of  
24 corrections, the director of early learning, the director of ecology,  
25 the commissioner of employment security, the chair of the energy  
26 facility site evaluation council, the secretary of the state finance  
27 committee, the director of financial management, the director of fish  
28 and wildlife, the executive secretary of the forest practices appeals  
29 board, the director of the gambling commission, the director of general  
30 administration, the secretary of health, the administrator of the  
31 Washington state health care authority, the executive secretary of the  
32 health care facilities authority, the executive secretary of the higher  
33 education facilities authority, the executive secretary of the horse  
34 racing commission, the executive secretary of the human rights  
35 commission, the executive secretary of the indeterminate sentence  
36 review board, the director of the department of information services,  
37 the director of the interagency committee for outdoor recreation, the

1 executive director of the state investment board, the director of labor  
2 and industries, the director of licensing, the director of the lottery  
3 commission, the director of the office of minority and women's business  
4 enterprises, the director of parks and recreation, the director of  
5 personnel, the executive director of the public disclosure commission,  
6 the director of retirement systems, the director of revenue, the  
7 secretary of social and health services, the chief of the Washington  
8 state patrol, the executive secretary of the board of tax appeals, the  
9 secretary of transportation, the secretary of the utilities and  
10 transportation commission, the director of veterans affairs, the  
11 president of each of the regional and state universities and the  
12 president of The Evergreen State College, each district and each campus  
13 president of each state community college;

14 (2) Each professional staff member of the office of the governor;

15 (3) Each professional staff member of the legislature; and

16 (4) Central Washington University board of trustees, board of  
17 trustees of each community college, each member of the state board for  
18 community and technical colleges, state convention and trade center  
19 board of directors, committee for deferred compensation, Eastern  
20 Washington University board of trustees, Washington economic  
21 development finance authority, The Evergreen State College board of  
22 trustees, executive ethics board, forest practices appeals board,  
23 forest practices board, gambling commission, life sciences discovery  
24 fund authority board of trustees, Washington health care facilities  
25 authority, each member of the Washington health services commission,  
26 higher education coordinating board, higher education facilities  
27 authority, horse racing commission, state housing finance commission,  
28 human rights commission, indeterminate sentence review board, board of  
29 industrial insurance appeals, information services board, interagency  
30 committee for outdoor recreation, state investment board, commission on  
31 judicial conduct, legislative ethics board, liquor control board,  
32 lottery commission, marine oversight board, Pacific Northwest electric  
33 power and conservation planning council, parks and recreation  
34 commission, personnel appeals board, board of pilotage commissioners,  
35 pollution control hearings board, public disclosure commission, public  
36 pension commission, shorelines hearing board, public employees'  
37 benefits board, salmon recovery funding board, board of tax appeals,  
38 transportation commission, University of Washington board of regents,

1 utilities and transportation commission, Washington state maritime  
2 commission, Washington personnel resources board, Washington public  
3 power supply system executive board, Washington State University board  
4 of regents, Western Washington University board of trustees, and fish  
5 and wildlife commission.

6 **PART 2**

7 **POLICIES AND PROGRAMS TRANSFERRED**

8 **Sec. 201.** RCW 41.04.385 and 2005 c 490 s 9 are each amended to  
9 read as follows:

10 The legislature finds that (1) demographic, economic, and social  
11 trends underlie a critical and increasing demand for child care in the  
12 state of Washington; (2) working parents and their children benefit  
13 when the employees' child care needs have been resolved; (3) the state  
14 of Washington should serve as a model employer by creating a supportive  
15 atmosphere, to the extent feasible, in which its employees may meet  
16 their child care needs; and (4) the state of Washington should  
17 encourage the development of partnerships between state agencies, state  
18 employees, state employee labor organizations, and private employers to  
19 expand the availability of affordable quality child care. The  
20 legislature finds further that resolving employee child care concerns  
21 not only benefits the employees and their children, but may benefit the  
22 employer by reducing absenteeism, increasing employee productivity,  
23 improving morale, and enhancing the employer's position in recruiting  
24 and retaining employees. Therefore, the legislature declares that it  
25 is the policy of the state of Washington to assist state employees by  
26 creating a supportive atmosphere in which they may meet their child  
27 care needs. Policies and procedures for state agencies to address  
28 employee child care needs will be the responsibility of the director of  
29 personnel in consultation with the director of the department of early  
30 learning and state employee representatives.

31 **Sec. 202.** RCW 74.13.085 and 1989 c 381 s 2 are each amended to  
32 read as follows:

33 It shall be the policy of the state of Washington to:

34 (1) Recognize the family as the most important social and economic  
35 unit of society and support the central role parents play in child

1 rearing. All parents are encouraged to care for and nurture their  
2 children through the traditional methods of parental care at home.  
3 However, there has been a dramatic increase in participation of women  
4 in the workforce which has made the availability of quality, affordable  
5 child care a critical concern for the state and its citizens. There  
6 are not enough child care services and facilities to meet the needs of  
7 working parents, the costs of care are often beyond the resources of  
8 working parents, and child care facilities are not located conveniently  
9 to work places and neighborhoods. Parents are encouraged to  
10 participate fully in the effort to improve the quality of child care  
11 services.

12 (2) Promote a variety of culturally and developmentally appropriate  
13 child care settings and services of the highest possible quality in  
14 accordance with the basic principle of continuity of care. These  
15 settings shall include, but not be limited to, family day care homes,  
16 mini-centers, centers and schools.

17 (3) Promote the growth, development and safety of children by  
18 working with community groups including providers and parents to  
19 establish standards for quality service, training of child care  
20 providers, fair and equitable monitoring, and salary levels  
21 commensurate with provider responsibilities and support services.

22 (4) Promote equal access to quality, affordable, socio-economically  
23 integrated child care for all children and families.

24 (5) Facilitate broad community and private sector involvement in  
25 the provision of quality child care services to foster economic  
26 development and assist industry through the department of early  
27 learning.

28 **Sec. 203.** RCW 74.13.0902 and 1989 c 381 s 6 are each amended to  
29 read as follows:

30 An employer liaison position is established in the department of  
31 (~~social and health services to be colocated at the business assistance~~  
32 ~~center established under RCW 43.31.083)) early learning to be colocated  
33 with the department of community, trade, and economic development. The  
34 employer liaison shall, within appropriated funds:~~

35 (1) Staff and assist the child care partnership in the  
36 implementation of its duties (~~under RCW 74.13.0901~~);

1 (2) Provide technical assistance to employers regarding child care  
2 services, working with and through local resource and referral  
3 organizations whenever possible. Such technical assistance shall  
4 include at a minimum:

5 (a) Assessing the child care needs of employees and prospective  
6 employees;

7 (b) Reviewing options available to employers interested in  
8 increasing access to child care for their employees;

9 (c) Developing techniques to permit small businesses to increase  
10 access to child care for their employees;

11 (d) Reviewing methods of evaluating the impact of child care  
12 activities on employers; and

13 (e) Preparing, collecting, and distributing current information for  
14 employers on options for increasing involvement in child care; and

15 (3) Provide assistance to local child care resource and referral  
16 organizations to increase their capacity to provide quality technical  
17 assistance to employers in their community.

18 **Sec. 204.** RCW 74.13.0903 and 2005 c 490 s 10 are each amended to  
19 read as follows:

20 ~~The ((office of child care policy is established to operate under~~  
21 ~~the authority of the department of social and health services. The~~  
22 ~~duties and responsibilities of the office include, but are not limited~~  
23 ~~to, the following, within appropriated funds)) department of early~~  
24 ~~learning shall:~~

25 (1) Work in conjunction with the statewide child care resource and  
26 referral network as well as local governments, nonprofit organizations,  
27 businesses, and community child care advocates to create local child  
28 care resource and referral organizations. These organizations may  
29 carry out needs assessments, resource development, provider training,  
30 technical assistance, and parent information and training;

31 (2) Actively seek public and private money for distribution as  
32 grants to the statewide child care resource and referral network and to  
33 existing or potential local child care resource and referral  
34 organizations;

35 (3) Adopt rules regarding the application for and distribution of  
36 grants to local child care resource and referral organizations. The

1 rules shall, at a minimum, require an applicant to submit a plan for  
2 achieving the following objectives:

3 (a) Provide parents with information about child care resources,  
4 including location of services and subsidies;

5 (b) Carry out child care provider recruitment and training  
6 programs, including training under RCW 74.25.040;

7 (c) Offer support services, such as parent and provider seminars,  
8 toy-lending libraries, and substitute banks;

9 (d) Provide information for businesses regarding child care supply  
10 and demand;

11 (e) Advocate for increased public and private sector resources  
12 devoted to child care;

13 (f) Provide technical assistance to employers regarding employee  
14 child care services; and

15 (g) Serve recipients of temporary assistance for needy families and  
16 working parents with incomes at or below household incomes of one  
17 hundred seventy-five percent of the federal poverty line;

18 (4) Provide staff support and technical assistance to the statewide  
19 child care resource and referral network and local child care resource  
20 and referral organizations;

21 (5) Maintain a statewide child care licensing data bank and work  
22 with department (~~of social and health services~~) licensors to provide  
23 information to local child care resource and referral organizations  
24 about licensed child care providers in the state;

25 (6) Through the statewide child care resource and referral network  
26 and local resource and referral organizations, compile data about local  
27 child care needs and availability for future planning and development;

28 (7) Coordinate with the statewide child care resource and referral  
29 network and local child care resource and referral organizations for  
30 the provision of training and technical assistance to child care  
31 providers; and

32 (8) Collect and assemble information regarding the availability of  
33 insurance and of federal and other child care funding to assist state  
34 and local agencies, businesses, and other child care providers in  
35 offering child care services.

36 **Sec. 205.** RCW 74.13.098 and 2005 c 507 s 2 are each amended to  
37 read as follows:

1 (1) Subject to the availability of funds appropriated for this  
2 specific purpose, the (~~(division of child care and early learning in~~  
3 ~~the)) department (~~(of social and health services))~~) shall establish a  
4 child care career and wage ladder in licensed child care centers that  
5 meet the following criteria: (a) At least ten percent of child care  
6 slots are dedicated to children whose care is subsidized by the state  
7 or any political subdivision thereof or any local government; (b) the  
8 center agrees to adopt the child care career and wage ladder, which, at  
9 a minimum, shall be at the same pay schedule as existed in the previous  
10 child care career and wage ladder pilot project; and (c) the center  
11 meets further program standards as established by rule pursuant to  
12 section 4 (~~(of this act)~~), chapter 507, Laws of 2005.~~

13 The child care career and wage ladder shall include wage increments  
14 for levels of education, years of relevant experience, levels of work  
15 responsibility, relevant early childhood education credits, and  
16 relevant requirements in the state training and registry system.

17 (2) The (~~(division))~~ department shall establish procedures for the  
18 allocation of funds to implement the child care career and wage ladder  
19 among child care centers meeting the criteria identified in subsection  
20 (1) of this section. In developing these procedures, the (~~(division))~~  
21 department shall:

22 (a) Review past efforts or administration of the child care career  
23 and wage ladder pilot project in order to take advantage of any  
24 findings, recommendations, or administrative practices that contributed  
25 to that pilot project's success;

26 (b) Consult with stakeholders, including organizations representing  
27 child care teachers and providers, in developing an allocation formula  
28 that incorporates consideration of geographic and demographic  
29 distribution of child care centers adopting the child care career and  
30 wage ladder; and

31 (c) Develop a system for prioritizing child care centers interested  
32 in adopting the child care career and wage ladder that is based on the  
33 criteria identified in subsection (1) of this section.

34 (3) Notwithstanding the requirements of subsection (2) of this  
35 section, child care centers meeting the criteria in subsection (1) of  
36 this section located in urban areas of the department of social and  
37 health services region one shall receive a minimum of fifteen percent  
38 of the funds allocated through the child care career and wage ladder,

1 and of these centers, child care centers meeting the criteria in  
2 subsection (1) of this section participating in the (~~department of~~  
3 ~~social and health services~~) Spokane tiered reimbursement pilot project  
4 shall have first priority for child care career and wage ladder  
5 funding.

6 **Sec. 206.** RCW 74.13.099 and 2005 c 507 s 3 are each amended to  
7 read as follows:

8 Child care centers adopting the child care career and wage ladder  
9 established pursuant to RCW 74.13.098 (as recodified by this act) shall  
10 increase wages for child care workers who have earned a high school  
11 diploma or GED certificate, gain additional years of experience, or  
12 accept increasing levels of responsibility in providing child care, in  
13 accordance with the child care career and wage ladder. The adoption of  
14 a child care career and wage ladder shall not prohibit the provision of  
15 wage increases based upon merit. The department (~~of social and health~~  
16 ~~services~~) shall pay wage increments for child care workers employed by  
17 child care centers adopting the child care career and wage ladder  
18 established pursuant to RCW 74.13.098 (as recodified by this act) who  
19 earn early childhood education credits or meet relevant requirements in  
20 the state training and registry system, in accordance with the child  
21 care career and wage ladder.

22 **Sec. 207.** RCW 74.15.350 and 2005 c 490 s 7 are each amended to  
23 read as follows:

24 (1) Subject to the availability of amounts appropriated for this  
25 specific purpose, the department (~~of social and health services~~)  
26 shall implement the tiered-reimbursement system developed pursuant to  
27 section 6, chapter 490, Laws of 2005. Implementation of the tiered-  
28 reimbursement system shall initially consist of two pilot sites in  
29 different geographic regions of the state with demonstrated public-  
30 private partnerships, with statewide implementation to follow.

31 (2) In implementing the tiered-reimbursement system, consideration  
32 shall be given to child care providers who provide staff wage  
33 progression.

34 (3) The department shall begin implementation of the two pilot  
35 sites by March 30, 2006.

1       **Sec. 208.** RCW 74.12.340 and 1973 1st ex.s. c 154 s 111 are each  
2 amended to read as follows:

3       (1) The department is authorized to (~~(promulgate)~~) adopt rules  
4 (~~(and regulations)~~) governing the provision of day care as a part of  
5 child welfare services when the secretary determines that a need exists  
6 for such day care and that it is in the best interests of the child,  
7 the parents, or the custodial parent and in determining the need for  
8 such day care priority shall be given to geographical areas having the  
9 greatest need for such care and to members of low income groups in the  
10 population: PROVIDED, That where the family is financially able to pay  
11 part or all of the costs of such care, fees shall be imposed and paid  
12 according to the financial ability of the family.

13       (2) This section does not affect the authority of the department of  
14 early learning to adopt rules governing child day care and early  
15 learning programs.

16       **Sec. 209.** RCW 28A.215.110 and 1999 c 350 s 1 are each amended to  
17 read as follows:

18       Unless the context clearly requires otherwise, the definitions in  
19 this section apply throughout RCW 28A.215.100 through 28A.215.200 and  
20 28A.215.900 through 28A.215.908 (as recodified by this act).

21       (1) "Advisory committee" means the advisory committee under RCW  
22 28A.215.140 (as recodified by this act).

23       (2) "Department" means the department of (~~(community, trade, and~~  
24 ~~economic development)~~) early learning.

25       (3) "Eligible child" means a child not eligible for kindergarten  
26 whose family income is at or below one hundred ten percent of the  
27 federal poverty level, as published annually by the federal department  
28 of health and human services, and includes a child whose family is  
29 eligible for public assistance, and who is not a participant in a  
30 federal or state program providing comprehensive services and may  
31 include children who are eligible under rules adopted by the department  
32 if the number of such children equals not more than ten percent of the  
33 total enrollment in the early childhood program. Priority for  
34 enrollment shall be given to children from families with the lowest  
35 income or to eligible children from families with multiple needs.

36       (4) "Approved programs" means those state-supported education and  
37 special assistance programs which are recognized by the department (~~(of~~

1 ~~community, trade, and economic development~~)) as meeting the minimum  
2 program rules adopted by the department to qualify under RCW  
3 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 (as  
4 recodified by this act) and are designated as eligible for funding by  
5 the department under RCW 28A.215.160 and 28A.215.180 (as recodified by  
6 this act).

7 (5) "Comprehensive" means an assistance program that focuses on the  
8 needs of the child and includes education, health, and family support  
9 services.

10 (6) "Family support services" means providing opportunities for  
11 parents to:

- 12 (a) Actively participate in their child's early childhood program;
- 13 (b) Increase their knowledge of child development and parenting  
14 skills;
- 15 (c) Further their education and training;
- 16 (d) Increase their ability to use needed services in the community;
- 17 (e) Increase their self-reliance.

18 **Sec. 210.** RCW 28A.215.120 and 1994 c 166 s 4 are each amended to  
19 read as follows:

20 The department (~~of community, trade, and economic development~~)  
21 shall administer a state-supported early childhood education and  
22 assistance program to assist eligible children with educational,  
23 social, health, nutritional, and cultural development to enhance their  
24 opportunity for success in the common school system. Eligible children  
25 shall be admitted to approved early childhood programs to the extent  
26 that the legislature provides funds, and additional eligible children  
27 may be admitted to the extent that grants and contributions from  
28 community sources provide sufficient funds for a program equivalent to  
29 that supported by state funds.

30 **Sec. 211.** RCW 43.63A.066 and 1993 c 280 s 58 are each amended to  
31 read as follows:

32 The department of (~~community, trade, and economic development~~)  
33 early learning shall have primary responsibility for providing child  
34 abuse and neglect prevention training to preschool age children  
35 participating in the federal head start program or the early childhood

1 education and assistance program established under RCW 28A.215.010  
2 through 28A.215.050, 28A.215.100 through 28A.215.200, and 28A.215.900  
3 through 28A.215.908 (as recodified by this act).

4 **PART 3**

5 **DEPARTMENT OF EARLY LEARNING LICENSING**

6 NEW SECTION. **Sec. 301.** The director shall have the power and it  
7 shall be the director's duty with regard to licensing:

8 (1) In consultation and with the advice and assistance of persons  
9 representative of the various type agencies to be licensed, to  
10 designate categories of child care facilities for which separate or  
11 different requirements shall be developed as may be appropriate whether  
12 because of variations in the ages and other characteristics of the  
13 children served, variations in the purposes and services offered or  
14 size or structure of the agencies to be licensed, or because of any  
15 other factor relevant thereto;

16 (2) In consultation and with the advice and assistance of persons  
17 representative of the various type agencies to be licensed, to adopt  
18 and publish minimum requirements for licensing applicable to each of  
19 the various categories of agencies to be licensed under this chapter.

20 The minimum requirements shall be limited to:

21 (a) The size and suitability of a facility and the plan of  
22 operation for carrying out the purpose for which an applicant seeks a  
23 license;

24 (b) The character, suitability, and competence of an agency and  
25 other persons associated with an agency directly responsible for the  
26 care of children. In consultation with law enforcement personnel, the  
27 director shall investigate the conviction record or pending charges and  
28 dependency record information under chapter 43.43 RCW of each agency  
29 and its staff seeking licensure or relicensure. No unfounded  
30 allegation of child abuse or neglect as defined in RCW 26.44.020 may be  
31 disclosed to a provider licensed under this chapter. In order to  
32 determine the suitability of applicants for an agency license,  
33 licensees, their employees, and other persons who have unsupervised  
34 access to children in care, and who have not resided in the state of  
35 Washington during the three-year period before being authorized to care  
36 for children shall be fingerprinted. The fingerprints shall be

1 forwarded to the Washington state patrol and federal bureau of  
2 investigation for a criminal history records check. The fingerprint  
3 criminal history records checks will be at the expense of the licensee.  
4 The licensee may not pass this cost on to the employee or prospective  
5 employee, unless the employee is determined to be unsuitable due to his  
6 or her criminal history record. The director shall use the information  
7 solely for the purpose of determining eligibility for a license and for  
8 determining the character, suitability, and competence of those persons  
9 or agencies, excluding parents, not required to be licensed who are  
10 authorized to care for children. Criminal justice agencies shall  
11 provide the director such information as they may have and that the  
12 director may require for such purpose;

13 (c) The number of qualified persons required to render the type of  
14 care for which an agency seeks a license;

15 (d) The health, safety, cleanliness, and general adequacy of the  
16 premises to provide for the comfort, care, and well-being of children;

17 (e) The provision of necessary care and early learning, including  
18 food, clothing, supervision, and discipline; physical, mental, and  
19 social well-being; and educational, recreational, and spiritual  
20 opportunities for those served;

21 (f) The financial ability of an agency to comply with minimum  
22 requirements established under this chapter; and

23 (g) The maintenance of records pertaining to the care of children;

24 (3) To issue, revoke, or deny licenses to agencies pursuant to this  
25 chapter. Licenses shall specify the category of care that an agency is  
26 authorized to render and the ages and number of children to be served;

27 (4) To prescribe the procedures and the form and contents of  
28 reports necessary for the administration of this chapter and to require  
29 regular reports from each licensee;

30 (5) To inspect agencies periodically to determine whether or not  
31 there is compliance with this chapter and the requirements adopted  
32 under this chapter;

33 (6) To review requirements adopted under this chapter at least  
34 every two years and to adopt appropriate changes after consultation  
35 with affected groups for child day care requirements; and

36 (7) To consult with public and private agencies in order to help  
37 them improve their methods and facilities for the care and early  
38 learning of children.

1        NEW SECTION.    **Sec. 302.**    The chief of the Washington state patrol,  
2 through the director of fire protection, shall have the power and it  
3 shall be his or her duty:

4        (1) In consultation with the director and with the advice and  
5 assistance of persons representative of the various type agencies to be  
6 licensed, to adopt recognized minimum standard requirements pertaining  
7 to each category of agency established pursuant to this chapter  
8 necessary to protect all persons residing therein from fire hazards;

9        (2) To make or cause to be made such inspections and investigations  
10 of agencies as he or she deems necessary;

11        (3) To make a periodic review of requirements under section 301(5)  
12 of this act and to adopt necessary changes after consultation as  
13 required in subsection (1) of this section;

14        (4) To issue to applicants for licenses under this chapter who  
15 comply with the requirements, a certificate of compliance, a copy of  
16 which shall be presented to the department before a license shall be  
17 issued, except that an initial license may be issued as provided in  
18 section 309 of this act.

19        NEW SECTION.    **Sec. 303.**    Licensed child day care centers shall  
20 provide notice of pesticide use to parents or guardians of students and  
21 employees pursuant to chapter 17.21 RCW.

22        NEW SECTION.    **Sec. 304.**    A copy of the articles of incorporation of  
23 any agency or amendments to the articles of existing corporation  
24 agencies shall be sent by the secretary of state to the department at  
25 the time such articles or amendments are filed.

26        NEW SECTION.    **Sec. 305.**    All agencies subject to this chapter shall  
27 accord the department, the chief of the Washington state patrol, and  
28 the director of fire protection, or their designees, the right of  
29 entrance and the privilege of access to and inspection of records for  
30 the purpose of determining whether or not there is compliance with the  
31 provisions of this chapter and the requirements adopted under it.

32        NEW SECTION.    **Sec. 306.**    (1) It is unlawful for any agency to care  
33 for children unless the agency is licensed as provided in this chapter.

1 (2) A license issued under chapter 74.15 RCW before July 1, 2006,  
2 for an agency subject to this chapter after July 1, 2006, is valid  
3 until its next renewal, unless otherwise suspended or revoked by the  
4 department.

5 NEW SECTION. **Sec. 307.** Each agency shall make application for a  
6 license or renewal of license to the department on forms prescribed by  
7 the department. Upon receipt of such application, the department shall  
8 either grant or deny a license within ninety days. A license shall be  
9 granted if the agency meets the minimum requirements set forth in this  
10 chapter and the departmental requirements consistent with the chapter,  
11 except that an initial license may be issued as provided in section 309  
12 of this act. Licenses provided for in this chapter shall be issued for  
13 a period of three years. The licensee, however, shall advise the  
14 director of any material change in circumstances which might constitute  
15 grounds for reclassification of license as to category. The license  
16 issued under this chapter is not transferable and applies only to the  
17 licensee and the location stated in the application. For licensed  
18 family day care homes having an acceptable history of child care, the  
19 license may remain in effect for two weeks after a move.

20 NEW SECTION. **Sec. 308.** If a licensee desires to apply for a  
21 renewal of its license, a request for a renewal shall be filed ninety  
22 days before the expiration date of the license. If the department has  
23 failed to act at the time of the expiration date of the license, the  
24 license shall continue in effect until such time as the department  
25 acts.

26 NEW SECTION. **Sec. 309.** The director may, at his or her  
27 discretion, issue an initial license instead of a full license, to an  
28 agency or facility for a period not to exceed six months, renewable for  
29 a period not to exceed two years, to allow such agency or facility  
30 reasonable time to become eligible for full license.

31 NEW SECTION. **Sec. 310.** (1) The department may issue a  
32 probationary license to a licensee who has had a license but is  
33 temporarily unable to comply with a rule or has been the subject of  
34 multiple complaints or concerns about noncompliance if:

1 (a) The noncompliance does not present an immediate threat to the  
2 health and well-being of the children but would be likely to do so if  
3 allowed to continue; and

4 (b) The licensee has a plan approved by the department to correct  
5 the area of noncompliance within the probationary period.

6 (2) A probationary license may be issued for up to six months, and  
7 at the discretion of the department it may be extended for an  
8 additional six months. The department shall immediately terminate the  
9 probationary license, if at any time the noncompliance for which the  
10 probationary license was issued presents an immediate threat to the  
11 health or well-being of the children.

12 (3) The department may, at any time, issue a probationary license  
13 for due cause that states the conditions of probation.

14 (4) An existing license is invalidated when a probationary license  
15 is issued.

16 (5) At the expiration of the probationary license, the department  
17 shall reinstate the original license for the remainder of its term,  
18 issue a new license, or revoke the original license.

19 (6) A right to an adjudicative proceeding shall not accrue to the  
20 licensee whose license has been placed on probationary status unless  
21 the licensee does not agree with the placement on probationary status  
22 and the department then suspends, revokes, or modifies the license.

23 NEW SECTION. **Sec. 311.** (1) An agency may be denied a license, or  
24 any license issued pursuant to this chapter may be suspended, revoked,  
25 modified, or not renewed by the director upon proof (a) that the agency  
26 has failed or refused to comply with the provisions of this chapter or  
27 the requirements adopted pursuant to this chapter; or (b) that the  
28 conditions required for the issuance of a license under this chapter  
29 have ceased to exist with respect to such licenses. RCW 43.20A.205  
30 governs notice of a license denial, revocation, suspension, or  
31 modification and provides the right to an adjudicative proceeding.

32 (2) In any adjudicative proceeding regarding the denial,  
33 modification, suspension, or revocation of any license under this  
34 chapter, the department's decision shall be upheld if it is supported  
35 by a preponderance of the evidence.

36 (3) The department may assess civil monetary penalties upon proof  
37 that an agency has failed or refused to comply with the rules adopted

1 under this chapter or that an agency subject to licensing under this  
2 chapter is operating without a license except that civil monetary  
3 penalties shall not be levied against a licensed foster home. Monetary  
4 penalties levied against unlicensed agencies that submit an application  
5 for licensure within thirty days of notification and subsequently  
6 become licensed will be forgiven. These penalties may be assessed in  
7 addition to or in lieu of other disciplinary actions. Civil monetary  
8 penalties, if imposed, may be assessed and collected, with interest,  
9 for each day an agency is or was out of compliance. Civil monetary  
10 penalties shall not exceed seventy-five dollars per violation for a  
11 family day care home and two hundred fifty dollars per violation for  
12 child day care centers. Each day upon which the same or substantially  
13 similar action occurs is a separate violation subject to the assessment  
14 of a separate penalty. The department shall provide a notification  
15 period before a monetary penalty is effective and may forgive the  
16 penalty levied if the agency comes into compliance during this period.  
17 The department may suspend, revoke, or not renew a license for failure  
18 to pay a civil monetary penalty it has assessed pursuant to this  
19 chapter within ten days after such assessment becomes final. Chapter  
20 43.20A RCW governs notice of a civil monetary penalty and provides the  
21 right of an adjudicative proceeding. The preponderance of evidence  
22 standard shall apply in adjudicative proceedings related to assessment  
23 of civil monetary penalties.

24 (4)(a) In addition to or in lieu of an enforcement action being  
25 taken, the department may place a child day care center or family day  
26 care provider on nonreferral status if the center or provider has  
27 failed or refused to comply with this chapter or rules adopted under  
28 this chapter or an enforcement action has been taken. The nonreferral  
29 status may continue until the department determines that: (i) No  
30 enforcement action is appropriate; or (ii) a corrective action plan has  
31 been successfully concluded.

32 (b) Whenever a child day care center or family day care provider is  
33 placed on nonreferral status, the department shall provide written  
34 notification to the child day care center or family day care provider.

35 (5) The department shall notify appropriate public and private  
36 child care resource and referral agencies of the department's decision  
37 to: (a) Take an enforcement action against a child day care center or

1 family day care provider; or (b) place or remove a child day care  
2 center or family day care provider on nonreferral status.

3 NEW SECTION. **Sec. 312.** (1) The office of administrative hearings  
4 shall not assign nor allow an administrative law judge to preside over  
5 an adjudicative hearing regarding denial, modification, suspension, or  
6 revocation of any license to provide child care under this chapter,  
7 unless such judge has received training related to state and federal  
8 laws and department policies and procedures regarding:

- 9 (a) Child abuse, neglect, and maltreatment;
- 10 (b) Child protective services investigations and standards;
- 11 (c) Licensing activities and standards;
- 12 (d) Child development; and
- 13 (e) Parenting skills.

14 (2) The office of administrative hearings shall develop and  
15 implement a training program that carries out the requirements of this  
16 section. The office of administrative hearings shall consult and  
17 coordinate with the department in developing the training program. The  
18 department may assist the office of administrative hearings in  
19 developing and providing training to administrative law judges.

20 NEW SECTION. **Sec. 313.** The director shall immediately suspend the  
21 license or certificate of a person who has been certified pursuant to  
22 RCW 74.20A.320 by the department of social and health services as a  
23 person who is not in compliance with a support order or a residential  
24 or visitation order. If the person has continued to meet all other  
25 requirements for reinstatement during the suspension, reissuance of the  
26 license or certificate shall be automatic upon the director's receipt  
27 of a release issued by the department of social and health services  
28 stating that the licensee is in compliance with the order.

29 NEW SECTION. **Sec. 314.** Notwithstanding the existence or pursuit  
30 of any other remedy, the director may, in the manner provided by law,  
31 upon the advice of the attorney general, who shall represent the  
32 department in the proceeding, maintain an action in the name of the  
33 state for injunction or such other relief as he or she may deem  
34 advisable against any agency subject to licensing under the provisions

1 of this chapter or against any such agency not having a license as  
2 heretofore provided in this chapter.

3 NEW SECTION. **Sec. 315.** Any agency operating without a license  
4 shall be guilty of a misdemeanor. This section shall not be  
5 enforceable against an agency until sixty days after the effective date  
6 of new rules, applicable to such agency, have been adopted under this  
7 chapter.

8 **PART 4**

9 **DEPARTMENT OF SOCIAL AND HEALTH SERVICES LICENSING REVISIONS**

10 **Sec. 401.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and  
11 2001 c 137 s 3 are each reenacted and amended to read as follows:

12 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless  
13 otherwise clearly indicated by the context thereof, the following terms  
14 shall mean:

15 (1) "Agency" means any person, firm, partnership, association,  
16 corporation, or facility which receives children, expectant mothers, or  
17 persons with developmental disabilities for control, care, or  
18 maintenance outside their own homes, or which places, arranges the  
19 placement of, or assists in the placement of children, expectant  
20 mothers, or persons with developmental disabilities for foster care or  
21 placement of children for adoption, and shall include the following  
22 irrespective of whether there is compensation to the agency or to the  
23 children, expectant mothers or persons with developmental disabilities  
24 for services rendered:

25 (a) (~~("Child day care center" means an agency which regularly~~  
26 ~~provides care for a group of children for periods of less than twenty~~  
27 ~~four hours;~~

28 ~~(b))~~) "Child-placing agency" means an agency which places a child  
29 or children for temporary care, continued care, or for adoption;

30 ~~((c))~~ (b) "Community facility" means a group care facility  
31 operated for the care of juveniles committed to the department under  
32 RCW 13.40.185. A county detention facility that houses juveniles  
33 committed to the department under RCW 13.40.185 pursuant to a contract  
34 with the department is not a community facility;

1        ~~((d))~~ (c) "Crisis residential center" means an agency which is a  
2 temporary protective residential facility operated to perform the  
3 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
4 74.13.032 through 74.13.036;

5        ~~((e))~~ (d) "Emergency respite center" is an agency that may be  
6 commonly known as a crisis nursery, that provides emergency and crisis  
7 care for up to seventy-two hours to children who have been admitted by  
8 their parents or guardians to prevent abuse or neglect. Emergency  
9 respite centers may operate for up to twenty-four hours a day, and for  
10 up to seven days a week. Emergency respite centers may provide care  
11 for children ages birth through seventeen, and for persons eighteen  
12 through twenty with developmental disabilities who are admitted with a  
13 sibling or siblings through age seventeen. Emergency respite centers  
14 may not substitute for crisis residential centers or HOPE centers, or  
15 any other services defined under this section, and may not substitute  
16 for services which are required under chapter 13.32A or 13.34 RCW;

17        ~~((f))~~ ~~"Family day care provider" means a child day care provider~~  
18 ~~who regularly provides child day care for not more than twelve children~~  
19 ~~in the provider's home in the family living quarters;~~

20        ~~((g))~~ (e) "Foster-family home" means an agency which regularly  
21 provides care on a twenty-four hour basis to one or more children,  
22 expectant mothers, or persons with developmental disabilities in the  
23 family abode of the person or persons under whose direct care and  
24 supervision the child, expectant mother, or person with a developmental  
25 disability is placed;

26        ~~((h))~~ (f) "Group-care facility" means an agency, other than a  
27 foster-family home, which is maintained and operated for the care of a  
28 group of children on a twenty-four hour basis;

29        ~~((i))~~ (g) "HOPE center" means an agency licensed by the secretary  
30 to provide temporary residential placement and other services to street  
31 youth. A street youth may remain in a HOPE center for thirty days  
32 while services are arranged and permanent placement is coordinated. No  
33 street youth may stay longer than thirty days unless approved by the  
34 department and any additional days approved by the department must be  
35 based on the unavailability of a long-term placement option. A street  
36 youth whose parent wants him or her returned to home may remain in a  
37 HOPE center until his or her parent arranges return of the youth, not

1 longer. All other street youth must have court approval under chapter  
2 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

3 ~~((+j))~~ (h) "Maternity service" means an agency which provides or  
4 arranges for care or services to expectant mothers, before or during  
5 confinement, or which provides care as needed to mothers and their  
6 infants after confinement;

7 ~~((+k))~~ (i) "Responsible living skills program" means an agency  
8 licensed by the secretary that provides residential and transitional  
9 living services to persons ages sixteen to eighteen who are dependent  
10 under chapter 13.34 RCW and who have been unable to live in his or her  
11 legally authorized residence and, as a result, the minor lived outdoors  
12 or in another unsafe location not intended for occupancy by the minor.  
13 Dependent minors ages fourteen and fifteen may be eligible if no other  
14 placement alternative is available and the department approves the  
15 placement;

16 ~~((+l))~~ (j) "Service provider" means the entity that operates a  
17 community facility.

18 (2) "Agency" shall not include the following:

19 (a) Persons related to the child, expectant mother, or person with  
20 developmental disability in the following ways:

21 (i) Any blood relative, including those of half-blood, and  
22 including first cousins, nephews or nieces, and persons of preceding  
23 generations as denoted by prefixes of grand, great, or great-great;

24 (ii) Stepfather, stepmother, stepbrother, and stepsister;

25 (iii) A person who legally adopts a child or the child's parent as  
26 well as the natural and other legally adopted children of such persons,  
27 and other relatives of the adoptive parents in accordance with state  
28 law;

29 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
30 subsection (2)(a), even after the marriage is terminated; or

31 (v) Extended family members, as defined by the law or custom of the  
32 Indian child's tribe or, in the absence of such law or custom, a person  
33 who has reached the age of eighteen and who is the Indian child's  
34 grandparent, aunt or uncle, brother or sister, brother-in-law or  
35 sister-in-law, niece or nephew, first or second cousin, or stepparent  
36 who provides care in the family abode on a twenty-four-hour basis to an  
37 Indian child as defined in 25 U.S.C. Sec. 1903(4);

1 (b) Persons who are legal guardians of the child, expectant mother,  
2 or persons with developmental disabilities;

3 (c) Persons who care for a neighbor's or friend's child or  
4 children, with or without compensation, where ~~((i) The person~~  
5 ~~providing care for periods of less than twenty four hours does not~~  
6 ~~conduct such activity on an ongoing, regularly scheduled basis for the~~  
7 ~~purpose of engaging in business, which includes, but is not limited to,~~  
8 ~~advertising such care; or (ii))~~ the parent and person providing care  
9 on a twenty-four-hour basis have agreed to the placement in writing and  
10 the state is not providing any payment for the care;

11 ~~((Parents on a mutually cooperative basis exchange care of one~~  
12 ~~another's children;~~

13 ~~(e))~~ A person, partnership, corporation, or other entity that  
14 provides placement or similar services to exchange students or  
15 international student exchange visitors or persons who have the care of  
16 an exchange student in their home;

17 ~~((f))~~ (e) A person, partnership, corporation, or other entity  
18 that provides placement or similar services to international children  
19 who have entered the country by obtaining visas that meet the criteria  
20 for medical care as established by the United States immigration and  
21 naturalization service, or persons who have the care of such an  
22 international child in their home;

23 ~~((g) Nursery schools or kindergartens which are engaged primarily~~  
24 ~~in educational work with preschool children and in which no child is~~  
25 ~~enrolled on a regular basis for more than four hours per day;~~

26 ~~(h))~~ (f) Schools, including boarding schools, which are engaged  
27 primarily in education, operate on a definite school year schedule,  
28 follow a stated academic curriculum, accept only school-age children  
29 and do not accept custody of children;

30 ~~((i) Seasonal camps of three months' or less duration engaged~~  
31 ~~primarily in recreational or educational activities;~~

32 ~~(j))~~ (g) Hospitals licensed pursuant to chapter 70.41 RCW when  
33 performing functions defined in chapter 70.41 RCW, nursing homes  
34 licensed under chapter 18.51 RCW and boarding homes licensed under  
35 chapter 18.20 RCW;

36 ~~((k))~~ (h) Licensed physicians or lawyers;

37 ~~((l) Facilities providing care to children for periods of less~~

1 ~~than twenty four hours whose parents remain on the premises to~~  
2 ~~participate in activities other than employment;~~

3 ~~(m))~~ (i) Facilities approved and certified under chapter 71A.22  
4 RCW;

5 ~~((n))~~ (j) Any agency having been in operation in this state ten  
6 years prior to June 8, 1967, and not seeking or accepting moneys or  
7 assistance from any state or federal agency, and is supported in part  
8 by an endowment or trust fund;

9 ~~((o))~~ (k) Persons who have a child in their home for purposes of  
10 adoption, if the child was placed in such home by a licensed child-  
11 placing agency, an authorized public or tribal agency or court or if a  
12 replacement report has been filed under chapter 26.33 RCW and the  
13 placement has been approved by the court;

14 ~~((p))~~ (l) An agency operated by any unit of local, state, or  
15 federal government or an agency, located within the boundaries of a  
16 federally recognized Indian reservation, licensed by the Indian tribe;

17 ~~((q))~~ (m) A maximum or medium security program for juvenile  
18 offenders operated by or under contract with the department;

19 ~~((r))~~ (n) An agency located on a federal military reservation,  
20 except where the military authorities request that such agency be  
21 subject to the licensing requirements of this chapter.

22 (3) "Department" means the state department of social and health  
23 services.

24 (4) "Juvenile" means a person under the age of twenty-one who has  
25 been sentenced to a term of confinement under the supervision of the  
26 department under RCW 13.40.185.

27 (5) "Probationary license" means a license issued as a disciplinary  
28 measure to an agency that has previously been issued a full license but  
29 is out of compliance with licensing standards.

30 (6) "Requirement" means any rule, regulation, or standard of care  
31 to be maintained by an agency.

32 (7) "Secretary" means the secretary of social and health services.

33 (8) "Street youth" means a person under the age of eighteen who  
34 lives outdoors or in another unsafe location not intended for occupancy  
35 by the minor and who is not residing with his or her parent or at his  
36 or her legally authorized residence.

37 (9) "Transitional living services" means at a minimum, to the  
38 extent funds are available, the following:

1 (a) Educational services, including basic literacy and  
2 computational skills training, either in local alternative or public  
3 high schools or in a high school equivalency program that leads to  
4 obtaining a high school equivalency degree;

5 (b) Assistance and counseling related to obtaining vocational  
6 training or higher education, job readiness, job search assistance, and  
7 placement programs;

8 (c) Counseling and instruction in life skills such as money  
9 management, home management, consumer skills, parenting, health care,  
10 access to community resources, and transportation and housing options;

11 (d) Individual and group counseling; and

12 (e) Establishing networks with federal agencies and state and local  
13 organizations such as the United States department of labor, employment  
14 and training administration programs including the job training  
15 partnership act which administers private industry councils and the job  
16 corps; vocational rehabilitation; and volunteer programs.

17 **Sec. 402.** RCW 74.15.030 and 2005 c 490 s 11 are each amended to  
18 read as follows:

19 The secretary shall have the power and it shall be the secretary's  
20 duty:

21 (1) In consultation with the children's services advisory  
22 committee, and with the advice and assistance of persons representative  
23 of the various type agencies to be licensed, to designate categories of  
24 facilities for which separate or different requirements shall be  
25 developed as may be appropriate whether because of variations in the  
26 ages, sex and other characteristics of persons served, variations in  
27 the purposes and services offered or size or structure of the agencies  
28 to be licensed hereunder, or because of any other factor relevant  
29 thereto;

30 (2) In consultation with the children's services advisory  
31 committee, and with the advice and assistance of persons representative  
32 of the various type agencies to be licensed, to adopt and publish  
33 minimum requirements for licensing applicable to each of the various  
34 categories of agencies to be licensed.

35 The minimum requirements shall be limited to:

36 (a) The size and suitability of a facility and the plan of

1 operation for carrying out the purpose for which an applicant seeks a  
2 license;

3 (b) The character, suitability and competence of an agency and  
4 other persons associated with an agency directly responsible for the  
5 care and treatment of children, expectant mothers or developmentally  
6 disabled persons. In consultation with law enforcement personnel, the  
7 secretary shall investigate the conviction record or pending charges  
8 and dependency record information under chapter 43.43 RCW of each  
9 agency and its staff seeking licensure or relicensure. No unfounded  
10 allegation of child abuse or neglect as defined in RCW 26.44.020 may be  
11 disclosed to a child-placing agency, private adoption agency, or any  
12 other provider licensed under this chapter. In order to determine the  
13 suitability of applicants for an agency license, licensees, their  
14 employees, and other persons who have unsupervised access to children  
15 in care, and who have not resided in the state of Washington during the  
16 three-year period before being authorized to care for children shall be  
17 fingerprinted. The fingerprints shall be forwarded to the Washington  
18 state patrol and federal bureau of investigation for a criminal history  
19 records check. The fingerprint criminal history records checks will be  
20 at the expense of the licensee except that in the case of a foster  
21 family home, if this expense would work a hardship on the licensee, the  
22 department shall pay the expense. The licensee may not pass this cost  
23 on to the employee or prospective employee, unless the employee is  
24 determined to be unsuitable due to his or her criminal history record.  
25 The secretary shall use the information solely for the purpose of  
26 determining eligibility for a license and for determining the  
27 character, suitability, and competence of those persons or agencies,  
28 excluding parents, not required to be licensed who are authorized to  
29 care for children, expectant mothers, and developmentally disabled  
30 persons. Criminal justice agencies shall provide the secretary such  
31 information as they may have and that the secretary may require for  
32 such purpose;

33 (c) The number of qualified persons required to render the type of  
34 care and treatment for which an agency seeks a license;

35 (d) The safety, cleanliness, and general adequacy of the premises  
36 to provide for the comfort, care and well-being of children, expectant  
37 mothers or developmentally disabled persons;

1 (e) The provision of necessary care, including food, clothing,  
2 supervision and discipline; physical, mental and social well-being; and  
3 educational, recreational and spiritual opportunities for those served;

4 (f) The financial ability of an agency to comply with minimum  
5 requirements established pursuant to chapter 74.15 RCW and RCW  
6 74.13.031; and

7 (g) The maintenance of records pertaining to the admission,  
8 progress, health and discharge of persons served;

9 (3) To investigate any person, including relatives by blood or  
10 marriage except for parents, for character, suitability, and competence  
11 in the care and treatment of children, expectant mothers, and  
12 developmentally disabled persons prior to authorizing that person to  
13 care for children, expectant mothers, and developmentally disabled  
14 persons. However, if a child is placed with a relative under RCW  
15 13.34.065 or 13.34.130, and if such relative appears otherwise suitable  
16 and competent to provide care and treatment the criminal history  
17 background check required by this section need not be completed before  
18 placement, but shall be completed as soon as possible after placement;

19 (4) On reports of alleged child abuse and neglect, to investigate  
20 agencies in accordance with chapter 26.44 RCW, including child day-care  
21 centers and family day-care homes, to determine whether the alleged  
22 abuse or neglect has occurred, and whether child protective services or  
23 referral to a law enforcement agency is appropriate;

24 (5) To issue, revoke, or deny licenses to agencies pursuant to  
25 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the  
26 category of care which an agency is authorized to render and the ages,  
27 sex and number of persons to be served;

28 (6) To prescribe the procedures and the form and contents of  
29 reports necessary for the administration of chapter 74.15 RCW and RCW  
30 74.13.031 and to require regular reports from each licensee;

31 (7) To inspect agencies periodically to determine whether or not  
32 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the  
33 requirements adopted hereunder;

34 (8) To review requirements adopted hereunder at least every two  
35 years and to adopt appropriate changes after consultation ((with  
36 ~~affected groups for child day care requirements and~~) with the  
37 children's services advisory committee for requirements for other  
38 agencies; and

1 (9) To consult with public and private agencies in order to help  
2 them improve their methods and facilities for the care of children,  
3 expectant mothers and developmentally disabled persons.

4 **Sec. 403.** RCW 74.15.100 and 1995 c 302 s 8 are each amended to  
5 read as follows:

6 Each agency shall make application for a license or renewal of  
7 license to the department of social and health services on forms  
8 prescribed by the department. A licensed agency having foster-family  
9 homes under its supervision may make application for a license on  
10 behalf of any such foster-family home. Such a foster home license  
11 shall cease to be valid when the home is no longer under the  
12 supervision of that agency. Upon receipt of such application, the  
13 department shall either grant or deny a license within ninety days  
14 unless the application is for licensure as a foster-family home, in  
15 which case RCW 74.15.040 shall govern. A license shall be granted if  
16 the agency meets the minimum requirements set forth in chapter 74.15  
17 RCW and RCW 74.13.031 and the departmental requirements consistent  
18 herewith, except that an initial license may be issued as provided in  
19 RCW 74.15.120. Licenses provided for in chapter 74.15 RCW and RCW  
20 74.13.031 shall be issued for a period of three years. The licensee,  
21 however, shall advise the secretary of any material change in  
22 circumstances which might constitute grounds for reclassification of  
23 license as to category. The license issued under this chapter is not  
24 transferable and applies only to the licensee and the location stated  
25 in the application. For licensed foster-family (~~and family day care~~)  
26 homes having an acceptable history of child care, the license may  
27 remain in effect for two weeks after a move, except that (~~for the~~  
28 ~~foster family home~~) this will apply only if the family remains intact.

29 **Sec. 404.** RCW 74.15.130 and 2005 c 473 s 6 are each amended to  
30 read as follows:

31 (1) An agency may be denied a license, or any license issued  
32 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
33 revoked, modified, or not renewed by the secretary upon proof (a) that  
34 the agency has failed or refused to comply with the provisions of  
35 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
36 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or

1 (b) that the conditions required for the issuance of a license under  
2 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
3 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
4 revocation, suspension, or modification and provides the right to an  
5 adjudicative proceeding.

6 (2) In any adjudicative proceeding regarding the denial,  
7 modification, suspension, or revocation of a foster family home  
8 license, the department's decision shall be upheld if there is  
9 reasonable cause to believe that:

10 (a) The applicant or licensee lacks the character, suitability, or  
11 competence to care for children placed in out-of-home care, however, no  
12 unfounded report of child abuse or neglect may be used to deny  
13 employment or a license;

14 (b) The applicant or licensee has failed or refused to comply with  
15 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
16 adopted pursuant to such provisions; or

17 (c) The conditions required for issuance of a license under chapter  
18 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
19 licenses.

20 (3) In any adjudicative proceeding regarding the denial,  
21 modification, suspension, or revocation of any license under this  
22 chapter, other than a foster family home license, the department's  
23 decision shall be upheld if it is supported by a preponderance of the  
24 evidence.

25 (4) The department may assess civil monetary penalties upon proof  
26 that an agency has failed or refused to comply with the rules adopted  
27 under the provisions of this chapter and RCW 74.13.031 or that an  
28 agency subject to licensing under this chapter and RCW 74.13.031 is  
29 operating without a license except that civil monetary penalties shall  
30 not be levied against a licensed foster home. Monetary penalties  
31 levied against unlicensed agencies that submit an application for  
32 licensure within thirty days of notification and subsequently become  
33 licensed will be forgiven. These penalties may be assessed in addition  
34 to or in lieu of other disciplinary actions. Civil monetary penalties,  
35 if imposed, may be assessed and collected, with interest, for each day  
36 an agency is or was out of compliance. Civil monetary penalties shall  
37 not exceed (~~seventy five dollars per violation for a family day care~~  
38 ~~home and~~) two hundred fifty dollars per violation for group homes(~~(7~~

1 ~~child day care centers,~~) and child-placing agencies. Each day upon  
2 which the same or substantially similar action occurs is a separate  
3 violation subject to the assessment of a separate penalty. The  
4 department shall provide a notification period before a monetary  
5 penalty is effective and may forgive the penalty levied if the agency  
6 comes into compliance during this period. The department may suspend,  
7 revoke, or not renew a license for failure to pay a civil monetary  
8 penalty it has assessed pursuant to this chapter within ten days after  
9 such assessment becomes final. Chapter 43.20A RCW governs notice of a  
10 civil monetary penalty and provides the right of an adjudicative  
11 proceeding. The preponderance of evidence standard shall apply in  
12 adjudicative proceedings related to assessment of civil monetary  
13 penalties.

14 ~~((5)(a) In addition to or in lieu of an enforcement action being  
15 taken, the department may place a child day care center or family day-  
16 care provider on nonreferral status if the center or provider has  
17 failed or refused to comply with this chapter or rules adopted under  
18 this chapter or an enforcement action has been taken. The nonreferral  
19 status may continue until the department determines that: (i) No  
20 enforcement action is appropriate; or (ii) a corrective action plan has  
21 been successfully concluded.~~

22 ~~(b) Whenever a child day care center or family day care provider is  
23 placed on nonreferral status, the department shall provide written  
24 notification to the child day care center or family day care provider.~~

25 ~~(6) The department shall notify appropriate public and private  
26 child care resource and referral agencies of the department's decision  
27 to: (a) Take an enforcement action against a child day care center or  
28 family day care provider; or (b) place or remove a child day care  
29 center or family day care provider on nonreferral status.)~~

## 30 PART 5

### 31 TRANSFER OF POWERS, DUTIES, AND FUNCTIONS

32 NEW SECTION. **Sec. 501.** (1) All powers, duties, and functions of  
33 the office of the superintendent of public instruction and the  
34 department of community, trade, and economic development pertaining to  
35 the early childhood education and assistance (ECEAP) program and the  
36 early reading initiative are transferred to the department of early

1 learning. All references to the director or the department of  
2 community, trade, and economic development in the Revised Code of  
3 Washington shall be construed to mean the director or the department of  
4 early learning when referring to the functions transferred in this  
5 section.

6 (2) All powers, duties, and functions of the division of child care  
7 and early learning in the department of social and health services  
8 pertaining to the working connections child care program, child care  
9 licensing, child care quality activities, and the head start  
10 collaboration office are transferred to the department of early  
11 learning. However, eligibility staffing and eligibility payment  
12 functions for the working connections child care program shall not be  
13 transferred to the department of early learning. All references to the  
14 secretary or the department of social and health services in the  
15 Revised Code of Washington shall be construed to mean the director or  
16 the department of early learning when referring to the functions  
17 transferred in this section.

18 NEW SECTION. **Sec. 502.** All reports, documents, surveys, books,  
19 records, files, papers, or written material in the possession of the  
20 office of the superintendent of public instruction, the department of  
21 social and health services, and the department of community, trade, and  
22 economic development pertaining to the powers, functions, and duties  
23 transferred in section 501 of this act shall be delivered to the  
24 custody of the department of early learning. All cabinets, furniture,  
25 office equipment, motor vehicles, and other tangible property employed  
26 by the office of the superintendent of public instruction, the  
27 department of social and health services, and the department of  
28 community, trade, and economic development in carrying out the powers,  
29 functions, and duties transferred shall be made available to the  
30 department of early learning. All funds, credits, or other assets held  
31 in connection with the powers, functions, and duties transferred shall  
32 be assigned to the department of early learning.

33 NEW SECTION. **Sec. 503.** (1) Any appropriations made to the office  
34 of the superintendent of public instruction or the department of  
35 community, trade, and economic development for carrying out the powers,

1 functions, and duties transferred in section 501 of this act shall, on  
2 the effective date of this section, be transferred and credited to the  
3 department of early learning;

4 (2) Any appropriations made to the department of social and health  
5 services for carrying out the powers, functions, and duties transferred  
6 shall, on the effective date of this section, be transferred to the  
7 department of early learning through an interagency agreement.

8 NEW SECTION. **Sec. 504.** (1) All employees of the office of the  
9 superintendent of public instruction, the department of social and  
10 health services, and the department of community, trade, and economic  
11 development engaged in performing the powers, functions, and duties  
12 transferred in section 501 of this act are transferred to the  
13 jurisdiction of the department of early learning. All employees  
14 classified under chapter 41.06 RCW, the state civil service law, are  
15 assigned to the department of early learning to perform their usual  
16 duties upon the same terms as formerly, without any loss of rights,  
17 subject to any action that may be appropriate thereafter in accordance  
18 with the laws and rules governing state civil service.

19 (2) Nothing contained in this section may be construed to alter any  
20 existing collective bargaining unit or the provisions of any existing  
21 collective bargaining agreement until the agreement has expired or  
22 until the bargaining unit has been modified by action of the personnel  
23 resources board as provided by law.

24 NEW SECTION. **Sec. 505.** (1) All rules and all pending business  
25 before the office of the superintendent of public instruction, the  
26 department of social and health services, and the department of  
27 community, trade, and economic development pertaining to the powers,  
28 functions, and duties transferred in section 501 of this act shall be  
29 continued and acted upon by the department of early learning. All  
30 existing contracts and obligations shall remain in full force and shall  
31 be performed by the department of early learning.

32 (2) The transfer of the powers, duties, functions, and personnel of  
33 the office of the superintendent of public instruction, the department  
34 of social and health services, and the department of community, trade,  
35 and economic development shall not affect the validity of any act  
36 performed before the effective date of this section.

1 (3) Whenever any question arises as to the transfer of any  
2 personnel, funds, books, documents, records, papers, files, equipment,  
3 or other tangible property used or held in the exercise of the powers  
4 and the performance of the duties and functions transferred, the  
5 director of financial management shall make a determination as to the  
6 proper allocation and certify the same to the state agencies concerned.

7 (4) If apportionments of budgeted funds are required because of the  
8 transfers directed by this section and sections 501 through 504 of this  
9 act, the director of financial management shall certify the  
10 apportionments to the agencies affected, the state auditor, and the  
11 state treasurer. Each of these shall make the appropriate transfer and  
12 adjustments in funds and appropriation accounts and equipment records  
13 in accordance with the certification.

14 NEW SECTION. **Sec. 506.** By November 15, 2006, the department of  
15 early learning, in collaboration with the early learning council, shall  
16 prepare a report and make recommendations to the governor and  
17 appropriate committees of the legislature detailing:

18 (1) Coordination and collaboration between the department and the  
19 K-12 system at the state and local levels to ensure appropriate  
20 connections and smooth transitions between early learning and K-12;

21 (2) Ongoing coordination and collaboration between the department  
22 and other programs not included in the department;

23 (3) Ways the department will support local communities in  
24 encouraging public-private partnerships, innovative solutions to local  
25 issues, coordination of early learning services, and improved  
26 transitions from early learning to kindergarten;

27 (4) The relationship between the department and the public-private  
28 partnership;

29 (5) Internal governance of the department, to be implemented July  
30 1, 2007, upon termination of the early learning council; and

31 (6) Transition of any additional early learning programs and  
32 responsibilities, including administration of federal child care funds  
33 and subsidy eligibility and payment functions.

34 **PART 6**

35 **MISCELLANEOUS PROVISIONS**



1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

--- END ---