

**PRELIMINARY
MINUTES**

**2023 SPECIAL COMMITTEE ON CHILD CARE CENTERS AND CHILD CARE
HOMES**

November 1, 2023
Room 112-N—Statehouse

Members Present

Senator Renee Erickson, Chairperson
Representative Tory Blew, Vice-chairperson
Senator Brenda Dietrich
Senator Beverly Gossage
Senator Kristen O'Shea
Senator Pat Pettey
Representative Susan Concannon
Representative Angela Martinez
Representative Susan Ruiz
Representative Sean Tarwater
Representative Kenny Titus

Members Absent

All members present.

Staff Present

Chardae Caine, Kansas Legislative Research Department (KLRD)
Jillian Block, KLRD
Leighann Thone, KLRD
Mike Ditch, KLRD
Kyle Hamilton, Office of Revisor of Statutes
Jenna Moyer, Office of Revisor of Statutes
Charles Reimer, Office of Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Dr. Lisa Roy, Colorado Department of Early Childhood
Derik Flerlage, Family Health, Kansas Department of Health and Environment (KDHE)
Melissa Schoenberger, Child Care Licensing, KDHE
Alyson Dalrymple, Family Health, KDHE
Melissa Rooker, Kansas Children's Cabinet
Carla Whiteside-Hicks, Ph.D., Department for Children and Families
John Wilson, Kansas Action for Children
Allie Devine, Boys & Girls Clubs Kansas Alliance

**Wednesday, November 1
Morning Session**

Welcome

Chairperson Erickson opened the meeting at 8:02 am.

Overview of Child Care Policies in Other States

Dr. Lisa Roy, Executive Director, Colorado Department of Early Childhood (CDEC), provided an overview of early childhood programs in Colorado. ([Attachment 1](#)) Before CDEC, Colorado's vast array of programs that served children up through age five and their families, were administered across various agencies. Dr. Roy indicated that the State began discussing a unified child care agency due to duplication and inconsistencies in rules and regulations; difficulty in operating programs; and families being unsure where, when, or to whom to connect with regarding their specific questions. Dr. Roy remarked that the State wanted to create a centralized agency for all programs related to child care. Programs previously under the Colorado Department of Education included the Colorado Preschool Program/Early Childhood At-Risk Enhancement (ECARE) program, and other services administered by a workforce development team within the agency.

Dr. Roy discussed programs that are administered under the new structure and those that were excluded.

Programs administered under the new structure:

- Division of Universal Preschool;
- Division of Early Learning, Access and Quality;
- Division of Early Learning, Licensing and Administration;
- Division of Early Childhood Workforce – new;
- Division of Community and Family Support; and
- Partnership and Collaboration Team.

Programs excluded from the new structure:

- Preschool Special Education;
- Temporary Assistance for Needy Families (TANF);
- Child Welfare;

- Child and Adult Care Food Care Program; and
- Women, Infants, and Children (WIC).

Dr. Roy stated for the next year, the CDEC intends to achieve goals related to access, workforce, and strengthening families. The agency will accomplish those goals by ensuring the early childhood system is sustainable, maximizing funding, prioritizing data-informed decision making, and promoting a culture of workplace excellence.

The mixed delivery model brings together a variety of provider types and program settings, both public and private, to serve children. In UPK, any program is eligible to participate if it is licensed and meets certain requirements. Eligible programs include:

- Faith-based early learning programs;
- Elementary schools, including charter schools;
- Family child care homes;
- For-profit and nonprofit center-based child care programs; and
- Stand-alone preschools.

Regarding the early childhood education (ECE) workforce, as of the start of the 2020-2021 school year, more than eight out of ten employees had been employed in the ECE field the previous school year. Next, Dr. Roy discussed stabilization grants which aim to steady the child care sector, sustain the child care workforce, and benefit families of young children by providing financial relief. The Child Care Operations Stabilization Grant helps offset existing operational expenses, and providers are encouraged to pass along financial relief to families in their care. The Workforce Sustainability Grant supports the recruitment and retention of qualified staff through new offerings. All 64 counties in Colorado received funding. Providers received additional bonus payments for serving infants and toddlers, children with disabilities, and children outside of regular business hours (before 6:00 am and after 6:00 pm, as well as on weekends).

Finally, Dr. Roy discussed CDEC programs related to provider education. She stated the free ECE 101 and 103 Coursework Program provides the minimum coursework to become Early Childhood Teacher qualified. Professionals who want to start their careers in the field may enroll in ECE 1101, Intro to ECE; and ECE 1103, Guidance Strategies, and have their tuition and fees waived. The T.E.A.C.H. Early Childhood Colorado Scholarship Program offers early childhood professionals a pathway to pursue higher education.

Committee members asked questions concerning day care worker benefits. In response, Dr. Roy stated there are different programs that provide retirement and health benefits, however it is not consistent. Currently, available benefits are based on whether the day care center is part of a school district or is a large provider. The Committee asked if expanded Medicaid eligibility includes early child care workers and Dr. Roy stated she would provide the Committee with more information at a later date. Committee members also asked if tax incentives had assisted in providing more resources for the early child care system. Dr. Roy indicated that

incentives and employer-based child care programs were helpful in receiving donations. However, those go to directly to the provider of choice, so they are not made available to all providers. Committee members asked if Colorado passed the refundable income tax credit for an early childhood educator. Dr. Roy remarked that the legislation did pass and over 25,000 professionals have taken advantage of the tax credit.

Discussion/Processing of Information from Committee

Chairperson Erickson stated that this portion of the meeting is to allow for Committee discussion and time for asking clarifying questions of the presenters from the September 26th meeting.

The Committee was provided a document entitled “Response to Requests from Child Care Presentation on September 26, 2023 by Child Care Licensing (CCL), Kansas Department of Health and Environment (KDHE).” ([Attachment 2](#))

Senator O’Shea stated there was some confusion and misinformation on which code the State Fire Marshal is currently using to determine applicable fire standards for facilities. In response, Alyson Dalrymple, Deputy Bureau Director, Family Health, KDHE, stated the State Fire Marshal currently uses the 2006 National Life Safety Code. Both the 2006 and 2018 (most recent) codes provide a cap of 12 children for child care homes. If there are more than 12 children, the codes become more stringent, such as requiring a sprinkler system or a certain number of exits for the facility.

A document entitled “Child-Staff Ratio Requirements” was provided to the Committee by KLRD at the request of Chairperson Erickson. ([Attachment 3](#))

Representative Titus asked KDHE for clarification on the qualifications for the different positions in child care, and where a potential provider could find eligibility requirements , specifically qualifying degrees. Derik Flerlage, Bureau Director, Family Health, KDHE stated the agency is considered different proposed regulations, and depending on which proposals are adopted, KDHE will have to retrain its staff on requirements and accessing information.

Senator O’Shea asked about the anticipated timeline for finalizing the new regulations. Mr. Flerlage, stated the rules and regulations are currently being reviewed by the Attorney General’s office and are awaiting final stamping before continuing through the process.

Senator Dietrich stated that she would like the Legislature to look at what Kentucky and 30 other states are doing related to paying for child care of any child care worker. Senator Dietrich noted that she would like that to be considered as a recommendation for the 2023 Legislative Session or as a long-term recommendation.

In response to a question regarding out-of-school programs, Allie Devine, Boys & Girls Clubs of America, Kansas Alliance, noted the organization has been working with state agencies regarding regulatory requirements, including the Office of the State Fire Marshal. Ms. Devine further stated the Department for Children and Families may shift to the 2Gen approach and has set aside \$11.3 million for this concept. In simple terms, a 2Gen facility is one that provides support for youth, as well as another generational level, such as parents or grandparents.

Committee members discussed parental leave, and during that discussion following information was noted. The infant ratio (infants per staff member) is still 3:1 in Kansas and Maryland. 64 percent of the states have a 4:1 ratio, 22 percent of the states have a 5:1 ratio, 12 percent of the states have a 6:1 ratio, and 2 percent of states have a 7:1 ratio.

A document entitled, “Child Care Statutes” was provided to the Committee by KLRD at the request of Chairperson Erickson ([Attachment 4](#)).

Representative Tarwater asked about the ratio for after school programs. He stated in his district, during the school day, there is a ratio of 30:1 in gym class, after school in the same gym or if in the cafeteria it is a 8:1 or 10:1 ratio in the room.

The Committee next asked questions regarding the ages of schoolchildren and questions regarding after school programs. Melissa Schoenberger, Director of Systems and Field Services, Child Care Licensing, KDHE, stated that in an after school setting there is a mixed age group. KDHE has a different criterion moving from an educational component to a child care licensing and child care component. Schoenberger mentioned that the agency held an out of school summit for after school care providers. During the summit, the stakeholders discussed the ratios and requirements for supervisory positions in the building. Currently, school districts have a memorandum of understanding with KDHE regarding child care within school buildings; however, outside entities are required to follow KDHE regulations.

The Committee also addressed the income tax credit. Committee members noted the credit may need to be updated if eligible residents are not utilizing it. Members also stated there is a need to further discuss income eligibility assistance, paying directly to the child care providers, eliminating or reducing the child care assistance/copay, and centralizing oversight of child care.

Chairperson Erickson asked about the fiscal note for eliminating the copay or changing the income eligibility for child care. John Wilson, President, Kansas Action for Children, stated his organization worked with DCF to try to estimate numbers because DCF has access to the data.

Mr. Wilson stated rough estimates concerning eliminating the child care assistance copay for families at or below 175.0 percent of the federal poverty level (FPL); and reducing the copayment to 3.0 percent of household income for families between 175.0 percent and 300.0 percent of the FPL would cost approximately \$1.9 million.

Mr. Wilson further stated expanded eligibility for the child care assistance program, or subsidy program, is estimated to be a cost of approximately \$55.7 million. Mr. Wilson stated it is important to note that the federal government limits the eligibility for these programs to 85.0 percent of the state median income, and that is why there are estimated costs, because the State would be required to fund the difference.

The Committee had a question about direct pay to day care providers instead of from DCF to parents to providers. Carla Whiteside-Hicks, Ph.D., Department for Children and Families, stated it would be a system change and the way KDHE issues payments.

The Committee asked if the unintended consequences of change to regulations might impact any federal funds that are received. Derik Flerlage, Bureau Director, Family Health,

KDHE, stated regulation changes could impact funding to the agency as a whole rather than funding specific to licensing.

Lunch

Chairperson Erickson recessed the meeting at 11:06 AM for lunch and reconvened the meeting at 1:01 PM.

Chairperson Erickson stated the Committee would consider the following questions while putting together the list of recommendations.

1. Do we want to have this recommendation?
 2. Are they short term or long term?
 3. The Committee will vote specifically on each short term recommendation and then vote on the long term as a slate.
- Chairperson Erickson explained to the Committee members that the Committee would go through the following possible recommendations and narrow the list down to the items that can be accomplished in the next two sessions.

Possible Recommendations

- Parental leave;
- Staff-to-child ratios;
 - Infant ratios
- The Kentucky plan, child care workers get paid for child care;
- Early Education Provider Tax Credit;
- Parity between during school and out-of-school programs (regulations);
 - During this discussion, the Committee was provided with two documents entitled, “Kansas Alliance of YMCA - Early Childhood Program Rules and Regulation review” ([Attachment 5](#)) and “Kansas Alliance of YMCAs - School Age Program (SAP) Rules and Regulations Review” ([Attachment 6](#)) by Representative Tarwater.
 - At the request of the Committee, a representative from the Office of the Revisor of Statutes provided an overview of KSA 65-527 regarding drop-in program and school-age programs in schools and public recreation centers; licensing of. Section B, this relates to the licensing requirements for the building specifies that no license for a drop-in program or school

program shall be denied, suspended or revoked on the basis that the building does not meet requirements for censure of the building, is a public recreation center or school, and is used by school age children and youth. ([Attachment 7](#))

- Ensure TANF funding is available for Out-of-School programs;
- Surveyors going under KDHE;
- State level child care tax credit that mirrors the federal tax credit;
- Increasing income eligibility for child care assistance to 450 percent of the FPL;
- Looking at advantages of putting child care programs under one umbrella;
- Assistance payments to providers, not to parents;
- Reducing child care assistance copay;
- Pass Medicaid expansion;
- Recommend KDHE regulations get expedited through the process;
- Provide funding for the certified development assistance;
- Reimbursement at the Tier 1 rate;
- Use State General Fund for money that goes to the Children’s Cabinet Trust Fund for items outside of child care or early childhood initiatives;
- Healthcare and retirement benefits;
- Allow flexibility in regulations;
- Allow parental choice;
- Consider what the State will do on annual basis to help maintain slots statewide;
- Joint Standing Committee; and
- Financial incentives for specialty child care options (infants, non-traditional hours, etc.)

The Committee reviewed the list and broke the list into short term recommendations and long term.

Recommendations

1. Parental leave – where is the money coming from, the state or the employer?

Senator O'Shea moved to further explore the costs and benefits of providing parental leave. Senator Pettey seconded the motion. Motion carried.

Senator O'Shea moved to be a long-term recommendation to explore by staff. Senator Pettey seconded the motion. Motion carried.

2. Establishment of a Joint Committee on Child Care to study child care related issues in more depth during the 2024 Legislative Session.

Senator Gossage moved to recommend a Joint Committee on Child Care Homes and Centers to explore the short-term recommendations during the 2024 Legislative Session, as well as the long-term recommendations that are approved by this Committee. Senator Dietrich seconded the motion.

Senator Gossage offered a substitute motion to change the name to the Joint Committee on Child Care. Senator Dietrich seconded the motion. Motion carried.

3. Staff-to-child ratios, including infant ratios.

Representative Tarwater moved to explore the ratios and the ages, and to include the item on the short term list. Senator Gossage seconded the motion.

Representative Titus made a substitute motion to explore the staff to child ratio and the ages, and to request KDHE to provide a report on fatalities and licensed facilities and asking the agency to present to the relevant legislative committee(s) by January 15, 2024, including the item on the short-term list. Senator Gossage seconded the substitute motion. Motion carried.

4. Early Education Provider Tax Credit and state child tax credit that would mirror the federal child tax credit.

Senator O'Shea moved to recommend continued exploration of the early education provider tax credit and possible creation of a state level child care tax credit that would mirror the federal child tax credit, and to include the item on the short term list. Senator Dietrich seconded the motion. Motion carried.

5. Parity between during school out of school programs (regulations).

Representative Tarwater moved to recommend exploring parity between during school and out-of-school programs (regulations) in the short term. Representative Concannon seconded the motion. Motion carried.

6. TANF funding for the drop-in program.

Representative Concannon moved to recommend that the Legislature support the budget process so that TANF funding is available for the Boys and Girls Club and to include the item on the short list. Representative Titus seconded the motion. Motion carried.

7. Surveyors becoming KDHE employees.

Representative Titus moved that the committee recommend in the short term that legislation be considered requiring KDHE to transition all child care licensing surveyors that are contracted positions be transitioned to full-time equivalent state employees under the direct supervision of KDHE as such contracts expire. Representative Concannon seconded the motion. Motion carried.

8. Increasing the income eligibility for child care assistance to 450 percent of the FPL – revised to beyond the 250 percent.

Representative S. Ruiz moved that the exploring state increase the income eligibility for child care assistance beyond 250 percent of the Federal Poverty Level and on the short term list. Senator Pettey seconded the motion. Motion carried.

9. Looking at advantages of putting child care programs under one umbrella.

Senator Pettey moved to explore the advantages of putting child care programs under one umbrella in the state of Kansas and on the short term list. Representative Ruiz seconded the motion. Motion carried.

10. Assistance payments to providers, not to parents.

Senator Dietrich moved that exploring assistance payments being made to providers rather than parents be approved and be placed on the short term list. Representative Martinez seconded the motion. Motion carried.

11. Recommend KDHE regulations concerning child care be expedited through the rules and regulations review process. During the second discussion regarding regulations, the Committee voted to request the LCC to approve a letter be written to the Office of the Attorney General regarding the rules and regulations process and to expedite the KDHE regulations concerning child care.

Senator O’Shea moved that the Committee explore the regulation process for rules and regulations, if it could it be expedited through the office of the Attorney General and that item be placed on the short term list. Senator Pettey seconded the motion. Motion carried.

12. Reimbursement at the Tier 1 rate Child and Adult Care Food Program (CACFP).

Senator Pettey moved that the Committee make a recommendation stating it supports reimbursement at the CACFP Tier 1 rate for food provided at certain child care facilities and that the topic be placed on the short term list. Representative Ruiz seconded the motion. Senator Gossage made a substitute motion to change ‘support’ to ‘consider’. Representative Tarwater seconded the substitute motion. Motion carried.

13. Use State General Fund for money that goes to the Children’s Cabinet Trust Fund for items outside of child care or early childhood initiatives.

Senator Pettey moved to consider using State General Fund moneys appropriated to the Children’s Cabinet Trust Fund for items outside of child care or early childhood initiatives

and that this item be placed on the short term list. Representative Ruiz seconded the motion. Motion carried.

14. Allow flexibility in regulations – This item was discussed as a part of item #5.

15. Financial incentives for specialty child care options (infants, non-traditional hours, etc.)

Representative Ruiz moved to consider exploring financial incentives for specialty child care options and add to the short term list. Senator Dietrich seconded the motion. Motion carried.

Pass Medicaid expansion - Representative Ruiz moved to add passing Medicaid expansion to the short-term list. Senator Pettey seconded the motion. Motion failed.

Senator Erickson moved that the remaining seven items are for long term consideration. Senator Dietrich seconded the motion.

The remaining seven items included the following:

1. The Kentucky plan, child care workers get paid for child care;
2. Reducing child care assistance copay;
3. Providing funding for the certified development assistance;
4. Health care and retirement benefits;
5. Allow parental choice;
6. Consider what the State will do on annual basis to help maintain slots statewide; and
7. Explore to pass Medicaid expansion.

Representative Blew moved a substitute motion to remove Medicaid expansion for the long-term list. Representative Tarwater seconded the substitute motion. Motion failed.

The original motion was carried.

The Committee was provided with the following information during the Committee:

- Recommendations to the 2023 Special Committee on Child Care Centers and Child Care homes - Recommendations are compiled verbatim from testimony provided by organizations, stakeholders, and individuals during the September 26, 2023 meeting. Some recommendations have been edited for clarity. ([Attachment 8](#))
- Department for Children and Families responses, directed at KDHE but are within DCF's scope. ([Attachment 9](#));

- Major Statutory Changes to Child Care Regulation in Kansas, by Chardae Caine, Senior Fiscal Analyst, Kansas Legislative Research Department ([Attachment 10](#));
- Proposal for the State of Kansas: Wonderschool Pilot Program ([Attachment 11](#));
- Governor Kelley announces \$11 million to create over 1,400 new child care slots. ([Attachment 12](#)); and
- KAC recommendations ([Attachment 13](#)).

Adjourn

Chair Erickson thanked the committee, staff, and attendees. The committee was adjourned at 3:44 pm.

Prepared by Connie Burns

Edited by Chardae Caine and Mike Ditch

Approved by the Committee on:

March 18, 2024

(Date)