

# STATE OF NEW YORK

8625

## IN ASSEMBLY

January 10, 2022

Introduced by M. of A. CLARK -- read once and referred to the Committee on Children and Families

AN ACT to amend the tax law, in relation to establishing the early learning child care act; to amend the state finance law, in relation to establishing the early learning child care fund; and to amend the social services law, in relation to establishing the early learning child care program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "Early  
2 Learning Child Care Act".

3 § 2. Legislative findings and intent. The legislature hereby finds and  
4 declares that New Yorkers are struggling to find quality affordable  
5 child care where the federal government and New York state have ignored  
6 their duty to provide children, particularly infants, with affordable,  
7 safe and proper care.

8 The legislature hereby finds and declares that recent studies suggest  
9 that working parents earning the median household wage must spend nearly  
10 31% of their income to afford center-based child care. Child care in New  
11 York city has an average annual cost for infants and toddlers in  
12 center-based child care of nearly nineteen thousand dollars, while home-  
13 based child care can cost over ten thousand dollars annually.

14 The legislature hereby finds and declares that currently child care  
15 agencies cannot afford to pay their workforce because of low reimburse-  
16 ment rates that have left the industry understaffed, with high employee  
17 turnover and employees living in poverty.

18 Therefore, the legislature hereby finds and declares that the govern-  
19 ment has an obligation to curb child care costs for families and provide  
20 a proper education and environment to children under five years of age,  
21 while investing in the human infrastructure to make sure providers and  
22 educators are properly compensated and trained.

23 § 3. The tax law is amended by adding a new article 24-B to read as  
24 follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD13513-04-1

ARTICLE 24-B  
EARLY LEARNING CHILD CARE ACT

Section 870. Definitions.

871. Imposition of tax and rate.

872. Pass through of tax prohibited.

873. Exemption override.

874. Payment of tax.

875. Deposit and disposition of revenue.

876. Procedural provisions.

877. Enforcement with other taxes.

§ 870. Definitions. For the purposes of this article:

(a) Employer. Employer means an employer required by section six hundred seventy-one of this chapter to deduct and withhold tax from wages, that has a payroll expense in excess of two million five hundred thousand dollars in any calendar year; other than:

(1) any agency or instrumentality of the United States;

(2) the United Nations;

(3) an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada; or

(4) (i) any non-profit early childhood services provider which receives funding from the federal or state government, or any municipal, state or federal agency, or political subdivision.

(ii) As used in this section, the term "early childhood services" shall mean services which include, but are not limited to, registered, certified or licensed care in family day care homes; group family day care homes; school-age child care programs; head start programs; day care centers; child care which may be provided without a permit, certificate or registration in accordance with this statute; early childhood education programs approved by the state education department.

(b) Payroll expense. Payroll expense means wages and compensation as defined in sections 3121 and 3231 of the internal revenue code (without regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all covered employees.

(c) Covered employee. Covered employee means an employee who is employed in the state of New York.

§ 871. Imposition of tax and rate. For the purpose of providing an additional stable and reliable dedicated funding source to address child care affordability, accessibility, and quality for families with children under five years of age, a tax is hereby imposed on employers and individuals as follows: For employers, the tax is imposed at a rate of (a) fifty hundredths (.50) percent of the payroll expense for employers with payroll expense in excess of two million five hundred thousand dollars and not more than five million dollars per calendar year, (b) seventy-five hundredths (.75) percent of the payroll expense for employers with payroll expense in excess of five million dollars and not more than ten million dollars per calendar year, and (c) one (1) percent of the payroll expense for employers with payroll expense in excess of ten million dollars per calendar year. If the employer is a professional employer organization, as defined in section nine hundred sixteen of the labor law, the employer's tax shall be calculated by determining the payroll expense attributable to each client who has entered into a professional employer agreement with such organization and the payroll expense attributable to such organization itself, multiplying each of those payroll expense amounts by the applicable rate set forth in this paragraph and adding those products together.

1     § 872. Pass through of tax prohibited. An employer cannot deduct from  
2 the wages or compensation of an employee any amount that represents all  
3 or any portion of the tax imposed on the employer under this article.

4     § 873. Exemption override. (a) Except as provided in subsection (b) of  
5 this section, any exemption from tax specified in any other New York  
6 state law will not apply to the tax imposed by this article.

7     (b) Any employer located in a tax-free NY area approved pursuant to  
8 the provisions of article twenty-one of the economic development law  
9 shall be exempt from the tax imposed under this article.

10    § 874. Payment of tax. Employers with payroll expense. The tax imposed  
11 on the payroll expense of employers under section eight hundred seven-  
12 ty-one of this article must be paid at the same time the employer is  
13 required to remit payments under section six hundred seventy-four of  
14 this chapter; provided however, that employers subject to the provisions  
15 in section nine of this chapter must pay the tax on the payroll expense  
16 at the same time as the withholding tax remitted under the electronic  
17 payment reporting system and the electronic funds transfer system  
18 authorized by section nine of this chapter.

19    § 875. Deposit and disposition of revenue. (a) The taxes, interest,  
20 and penalties imposed by this article and collected or received by the  
21 commissioner shall be deposited daily with such responsible banks, bank-  
22 ing houses or trust companies, as may be designated by the comptroller.  
23 The comptroller shall require adequate security from all such deposito-  
24 ries. Of the total revenue collected or received under this article,  
25 the comptroller of the city of New York shall retain such amount as the  
26 commissioner may determine to be necessary for refunds under this arti-  
27 cle. The comptroller is authorized and directed to deduct from the  
28 amounts it receives under this article, before deposit into the trust  
29 accounts designated by such comptroller, a reasonable amount necessary  
30 to effectuate refunds of the department to reimburse the department for  
31 the costs incurred to administer, collect and distribute the taxes  
32 imposed by this article.

33    (b) After reserving such amount for such refunds and deducting such  
34 amounts for such costs, as provided for in subsection (a) of this  
35 section, the commissioner shall certify to the comptroller the amount of  
36 all revenues so received during the prior month as a result of the  
37 taxes, interest and penalties so imposed. The amount of revenues so  
38 certified shall be paid over by the fifteenth and the final business day  
39 of each succeeding month from such account without appropriation into  
40 the early learning child care fund.

41    § 876. Procedural provisions. (a) General. All provisions of article  
42 twenty-two of this chapter shall apply to the provisions of this article  
43 in the same manner and with the same force and effect as if the language  
44 of article twenty-two of this chapter had been incorporated in full into  
45 this article and had been specifically adjusted for and expressly  
46 referred to the tax imposed by this article, except to the extent that  
47 any provision is either inconsistent with a provision of this article or  
48 is not relevant to this article. Notwithstanding the preceding sentence,  
49 no credit against tax in article twenty-two of this chapter can be used  
50 to offset the tax due under this article.

51    (b) Combined filings. Notwithstanding any other provisions of this  
52 article:

53    (1) The commissioner may require the filing of a combined return which  
54 may also include any of the returns required to be filed by a taxpayer  
55 pursuant to the provisions of section six hundred fifty-one of this  
56 chapter and which may be required to be filed by such taxpayer pursuant

1 to any local law enacted pursuant to the authority of article thirty,  
2 thirty-A or thirty-B of this chapter.

3 (2) Where a combined return is required, and with respect to the  
4 payment of estimated tax, the commissioner may also require the payment  
5 to it of a single amount which shall equal the total of the amounts  
6 (total taxes less any credits or refunds) which would have been required  
7 to be paid with the returns or in payment of estimated tax pursuant to  
8 the provisions of this article, the provisions of article twenty-two of  
9 this chapter, and the provisions of local laws enacted under the author-  
10 ity of article thirty, thirty-A or thirty-B of this chapter.

11 (3) Notwithstanding any other law to the contrary, the commissioner  
12 may require that all filings of forms or returns under this article  
13 shall be filed electronically and all payments of tax shall be paid  
14 electronically.

15 § 877. Enforcement with other taxes. (a) Joint assessment. If there is  
16 assessed a tax under this article and there is also assessed a tax  
17 against the same taxpayer pursuant to article twenty-two of this chapter  
18 or under a local law enacted pursuant to the authority of article thir-  
19 ty, thirty-A, or thirty-B of this chapter, and payment of a single  
20 amount is required under the provisions of this article, such payment  
21 shall be deemed to have been made with respect to the taxes so assessed  
22 in proportion to the amounts of such taxes due, including tax, penal-  
23 ties, interest and additions to tax.

24 (b) Joint action. If the commissioner takes action under such article  
25 twenty-two or under a local law enacted pursuant to the authority of  
26 article thirty, thirty-A, or thirty-B of this chapter with respect to  
27 the enforcement and collection of the tax or taxes assessed under such  
28 articles, the commissioner shall, whenever possible and necessary,  
29 accompany such action with a similar action under similar enforcement  
30 and collection provisions of the tax imposed by this article.

31 (c) Apportionment of moneys collected by joint action. Any moneys  
32 collected as a result of such joint action shall be deemed to have been  
33 collected in proportion to the amounts due, including tax, penalties,  
34 interest and additions to tax, under article twenty-two of this chapter  
35 or under a local law enacted pursuant to the authority of article thir-  
36 ty, thirty-A, or thirty-B of this chapter and the tax imposed by this  
37 article.

38 (d) Joint deficiency action. Whenever the commissioner takes any  
39 action with respect to a deficiency of income tax under article twenty-  
40 two of this chapter or under a local law enacted pursuant to the author-  
41 ity of article thirty, thirty-A, or thirty-B of this chapter, other than  
42 the action set forth in subsection (a) of this section, the commissioner  
43 may in his or her discretion accompany such action with a similar action  
44 under this article.

45 § 4. The state finance law is amended by adding a new section 99-oo to  
46 read as follows:

47 § 99-oo. Early learning child care fund. 1. There is hereby estab-  
48 lished in the joint custody of the state comptroller and the commission-  
49 er of taxation and finance a fund to be known as the "early learning  
50 child care fund".

51 2. Such fund shall consist of all revenues received by the state,  
52 pursuant to the provisions of article twenty-four-B of the tax law and  
53 all other moneys appropriated thereto from any other fund or source  
54 pursuant to law. Nothing contained in this section shall prevent the  
55 state from receiving grants, gifts or bequests for the purposes of the

1 fund as defined in this section and depositing them into the fund  
2 according to law.

3 3. Moneys shall be payable from the fund on the audit and warrant of  
4 the comptroller on vouchers approved and certified by the commissioner  
5 of social services.

6 § 5. Article 6 of the social services law is amended by adding a new  
7 title 5-D to read as follows:

8 TITLE 5-D

9 EARLY LEARNING CHILD CARE PROGRAM

10 Section 410-aa. Definitions.

11 410-bb. Early learning child care program.

12 410-cc. Financial assistance to qualified agencies for early  
13 learning child care program and enrollment.

14 410-dd. Drop-in care.

15 410-ee. Application and eligibility for families.

16 410-ff. Child care stabilization grant.

17 410-gg. Expansion grants; tax incentives.

18 410-hh. Training, technical assistance and professional develop-  
19 ment funding.

20 410-ii. Coordination and integration funds.

21 410-jj. Reporting requirements.

22 410-kk. Enforcement.

23 410-ll. Taskforce to study after school programming for five to  
24 twelve year old children and crisis care.

25 § 410-aa. Definitions. As used in this title, the term:

26 1. "Qualified agency" means any in family day care homes, group family  
27 day care homes, head start programs or center-based child care that is  
28 certified and licensed by the state.

29 2. "Early learning child care program" means a child care program for  
30 a child not less than six weeks of age and not more than five years of  
31 age that is provided in family day care homes, group family day care  
32 homes, head start programs or center-based child care that is certified  
33 and licensed by the state.

34 3. "Covered child" means a child:

35 (a) who is less than five years of age; or

36 (b) who is not yet in kindergarten.

37 4. "Financial assistance" means assistance provided by grant for which  
38 payments may be made in installments and in advance or by way of  
39 reimbursement with necessary adjustments on account of overpayments or  
40 underpayments.

41 5. "Low-income", with respect to a child or other individual, means an  
42 individual in a family with a family income that is not more than four  
43 hundred percent of the poverty line.

44 6. "Poverty line" means the official poverty line, as defined by the  
45 federal office of management and budget, based on the most recent data  
46 available from the bureau of the census: (a) adjusted to reflect the  
47 percentage change in the consumer price index for all urban consumers,  
48 issued by the bureau of labor statistics, during the annual or other  
49 interval immediately preceding the date on which such adjustment is  
50 made; and (b) adjusted for family size.

51 7. "Professional development" means the career pathway aligned mech-  
52 anisms that contribute to ensuring that a member of the early care and  
53 education workforce, in any setting, has or is working towards obtaining  
54 the degrees, credentials, and other trainings needed to demonstrate the  
55 necessary knowledge and competencies for quality provision of child care  
56 and early learning services.



1     8. "Expansion grant" means a monetary grant provided on a yearly basis  
2 to provide eligible agencies with funds for capital improvements,  
3 supplies, and other miscellaneous capital funds associated with building  
4 and maintaining an early learning child care program.

5     9. "Child care stabilization grant" means a monetary grant provided in  
6 fiscal year two thousand twenty-two to help child care providers pay  
7 their workforce a competitive wage and to hire more workers at a higher  
8 wage.

9     10. "Income eligibility fee scale" means a formula used to determine  
10 how much a family will spend on child care based on their income and how  
11 much will be subsidized through the universal child care program pursu-  
12 ant to section four hundred ten-ee of this title.

13     11. "Early learning program proposal" means a plan put together by  
14 qualified agencies designed to effectively serve covered children.

15     12. "Session" means one early learning child care program class oper-  
16 ating pursuant to time, staff ratio and other regulatory requirements  
17 set forth.

18     13. "Full working day" means not less than ten hours per day.

19     14. "Non-school hours" means: (a) the difference between a covered  
20 child's available hours in the early learning child care program minus  
21 the hours in a prekindergarten program; and (b) summer vacation and  
22 prekindergarten school holidays.

23     15. "Contracted care facility" means managed eligible agencies, such  
24 as in-home or center-based care facilities, or schools operating as  
25 early care and learning programs that enter into contract with the  
26 office of children and family services, local department of education or  
27 other qualified agency to meet detailed and specific requirements and  
28 goals.

29     16. "Drop-in care" means care provided to a covered child on short  
30 notice on a temporary basis as to help families with emergency situ-  
31 ations.

32     § 410-bb. Early learning child care program. 1. The department is  
33 hereby authorized and empowered to establish and operate the early  
34 learning child care program as authorized pursuant to section four  
35 hundred ten-ee of this title and as funded pursuant to article twenty-  
36 four-B of the tax law. The department shall have two dedicated revenue  
37 streams supporting the program for children under five years old. One  
38 part of the funding shall be dedicated to building out the needed  
39 infrastructure for establishing new child care facilities, training the  
40 workforce, and increasing capacity in existing facilities across the  
41 state through grants and scholarships. Grants shall include funding for  
42 capital purchases and improvements, expansion of provider networks,  
43 training activities and professional development programs, hiring more  
44 staff, the regulation and monitoring of the program, the develop-  
45 ment of computerized data systems, and consumer education. The second  
46 part of the funding shall be dedicated to providing covered children  
47 subsidies to attend qualified agencies' early learning child care  
48 programs. Up to ten percent of such funding may be used by the depart-  
49 ment to provide funds to social services districts, the child care  
50 resource and referral program, and to designated partners of the social  
51 service districts to administer the program, including for outreach,  
52 processing applications, helping families and eligible agencies navigate  
53 the application process, setting up local data collection, and all other  
54 administrative activities associated with administering the program.

55     2. Allocation of funds. (a) The department shall annually allocate all  
56 funds dedicated to the program pursuant to article twenty-four-B of the

1 tax law to social services districts according to an allocation plan  
2 developed by the department and approved by the director of the budget.  
3 The allocation plan shall be based, at least in part, on historical  
4 costs and on the availability, cost of, and need for child care assist-  
5 ance in each social services district. The commissioner shall take  
6 into account the incomes of residents in the area and shall also take  
7 into account the fee scale pursuant to section four hundred ten-ee of  
8 this title. Annual allocations shall be made on a state fiscal year  
9 basis. Social services districts shall demonstrate an ability to admin-  
10 ister the program. If a social services district is unable to demon-  
11 strate such an ability, the state shall be the administrator of the  
12 county early learning program.

13 (b) Social services districts shall expend the allocated money for all  
14 early learning child care programs which are qualified agencies based on  
15 covered children's eligibility and the cost estimation model used to  
16 reimburse agencies, pursuant to this title and the rules and regulations  
17 adopted by the department.

18 3. Early learning child care programs shall fall into two categories  
19 broadly: (a) voucher eligible agencies; and (b) contracted care eligible  
20 agencies. Social services districts shall have authority over how much  
21 funding will be dedicated to these two categories, as long as the  
22 social services districts program meets all requirements pursuant to the  
23 program.

24 4. (a) A social services district shall make awards for contracted  
25 care to consolidated applications submitted by qualified agencies which  
26 include early learning child care programs offered by non-profit organ-  
27 izations, community-based organizations, schools, libraries, museums,  
28 and/or charter schools which shall demonstrate geographic diversity  
29 within the area to be served as well as diversity of providers.

30 (b) Social services districts shall certify voucher eligible programs  
31 to applications submitted by qualified agencies which include early  
32 learning child care programs offered by in-home care, center-based care,  
33 informal care providers who are for profit or non-profit organizations,  
34 community-based organizations, charter schools, libraries and museums,  
35 which may apply individually to the extent allowed under paragraph (c)  
36 of this subdivision. Any consolidated application shall include, but  
37 shall not be limited to, the names of individual locations and provid-  
38 ers, applicable licenses, facility lease information, and intended  
39 staffing plans.

40 (c) Prior to submission of a consolidated application, the local  
41 commissioner of social services shall widely solicit prospective eligi-  
42 ble agencies. The local commissioner of social services shall notify  
43 any applicant who has been denied inclusion in the consolidated applica-  
44 tion and/or has not been certified no later than two weeks prior to the  
45 submission of such application. Such eligible providers denied inclusion  
46 may apply individually as provided in paragraph (a) of this subdivision.

47 5. The child care resource and referral program shall receive funds  
48 to: (a) help qualified agencies and prospective qualified agencies  
49 navigate the early child care program application process, including  
50 meeting operating standards, hiring staff, offering competitive wages to  
51 retain or hire new staff, and applying for proper funding based on  
52 prospective covered children's eligibility for the program; and (b)  
53 provide families assistance in connecting with early learning child care  
54 programs across the state. As a condition of receiving funds pursuant  
55 to this section, the child care resource and referral program

1 shall demonstrate that it is receiving or has an agreement to receive  
2 funds from sources other than the department pursuant to this title.

3 6. Qualified agencies shall apply to the local commissioner of social  
4 services for funds for prospective covered children. All applications  
5 approved by the commissioner shall include a commitment to use appropri-  
6 ate accounting and fiscal control procedures which shall include the  
7 filing of an annual financial statement which has been audited as  
8 required by the department so as to ensure:

9 (a) the proper disbursement accounting for funds received; and

10 (b) appropriate written records regarding the population served,  
11 including the level of financial assistance needed and the type and  
12 extent of services rendered.

13 7. Qualified agencies approved to receive funding shall be required to  
14 follow section four hundred ten-q of this article to provide information  
15 to parents who contact the certified child care center about the best  
16 child care options for parents and their covered child.

17 8. In order for an early learning program application by qualified  
18 agencies to be accepted and approved for funding, a proposal shall:

19 (a) include a needs assessment of the area within the applicant's  
20 community;

21 (b) demonstrate an ability to operate after typical work hours for  
22 parents working a full working day on atypical hours;

23 (c) provide for age and developmentally appropriate curriculum and  
24 activities;

25 (d) provide for periodic assessments of a child's development;

26 (e) provide a proper learning environment, materials and supplies for  
27 children to develop properly;

28 (f) have a robust plan and infrastructure to engage and communicate  
29 with families;

30 (g) meet staffing requirement criteria created by the department;

31 (h) provide adequate training and professional development opportu-  
32 nities for teachers and staff;

33 (i) demonstrate the quality of the facility;

34 (j) demonstrate the manner in which the physical well-being, health  
35 and nutrition are addressed;

36 (k) ensure equal opportunity by abiding by all standards set by Title  
37 III of the federal Americans with Disabilities Act in accordance with  
38 state law;

39 (l) incorporate an implicit bias and cultural competency training for  
40 child care providers, specifically focusing on served population;

41 (m) demonstrate compliance with local health licensing and permit  
42 requirements;

43 (n) outline the care options provided in relation to full working day  
44 hour sessions and non-school hour sessions; and

45 (o) other standards determined by the department.

46 9. Pursuant to section four hundred ten-cc of this title, an early  
47 learning program shall pay workers a salary that is equivalent to no  
48 less than forty-five thousand dollars annually for a full time teacher  
49 or staff members.

50 10. The department shall create a quality standard that eligible agen-  
51 cies shall meet to accept covered children who qualify for the prekin-  
52 dergarten program, but whose family choose to participate in the early  
53 learning child care program instead. This standard shall be met for an  
54 eligible agency to accept a covered child for a full working day session  
55 into the early learning child care program.



11. An early learning program proposal submitted under this section may be disapproved or a prior designation of qualified agency may be withdrawn only if the commissioner, in accordance with regulations established by the commissioner, has provided: (a) written notice of intention to disapprove such proposal or withdraw such designation, including a statement of the reasons for such disapproval or withdrawal; (b) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action; and (c) an opportunity for a public hearing upon which basis an appeal to the commissioner may be taken as of right.

12. The New York state child care board established pursuant to title five-E of this article shall adopt all other rules and regulations necessary to administer the program.

§ 410-cc. Financial assistance to qualified agencies for early learning child care program and enrollment. 1. Social services districts shall provide financial assistance for carrying out the early learning child care program to qualified agencies. The amount of financial assistance provided shall be based on a cost estimation model created by the department which determines the actual cost of care in relation to the income eligibility fee scale for each covered child of the program. The cost estimation model shall be determined by a report from the office of children and family services. The formula shall also take into account needed wage increases to hire and retain enough child care professionals to meet the needs of the program in relation to the position of a covered child's family on the income eligibility fee scale. Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.

2. Qualified agencies participating in the early learning child care program shall be reimbursed by the state based on the enrollment of covered children. Financial assistance shall be provided to the qualified agency regardless of whether a covered child attends their assigned session or not.

3. When determining the market rate cost for early child care learning programs, the department shall take into account:

(a) wages for workers that shall not be less than forty-five thousand dollars a year;

(b) an established differential payment rate for child care services for eligible agencies. Such differential payment rate shall be fifteen percent higher than the actual cost of care or the applicable market-related payment rate established by the office in regulations, whichever is less. Differential payment rates shall be provided to eligible agencies who provide care to: (i) a child experiencing homelessness; (ii) a child during non-traditional hours; and/or (iii) any other at-risk children that the New York state child care board deems appropriate;

(c) the education level of the staff member when determining pay, with staff with bachelors and masters degrees being paid more than those without such degrees; and

(d) wages for workers that take into account cost of living differences across different regions of the state.

§ 410-dd. Drop-in care. 1. Eligible agencies that are contracted care facilities or voucher eligible facilities that offer drop-in care shall be eligible to receive a tax credit pursuant to subdivision two of this section, based on the following criteria:

1 (a) the eligible agency meets all requirements outlined in the early  
2 learning child care program; and

3 (b) the eligible agency holds open spots for enrollment to covered  
4 children, based on the following sizes of the eligible agency's enroll-  
5 ment capacity:

6 (i) if fifteen children or less are enrolled within a child care  
7 facility, the eligible agency shall have a minimum of one spot available  
8 for drop-in care in order to receive the tax credit;

9 (ii) if thirty children or less are enrolled within a child care  
10 facility, the eligible agency shall have a minimum of two spots avail-  
11 able for drop-in care in order to receive the tax credit;

12 (iii) if forty-five children or less are enrolled within a child care  
13 facility, the eligible agency shall have a minimum of three spots avail-  
14 able for drop-in care in order to receive the tax credit; and

15 (iv) if more than forty-five children are enrolled within a child care  
16 facility, the eligible agency shall have a minimum of four spots avail-  
17 able for drop-in care in order to receive the tax credit.

18 2. Child care facilities that choose to provide drop-in care in  
19 accordance with the standards listed above within the first year of the  
20 program shall receive a tax credit in accordance with the formula  
21 approved by the New York state child care board. The tax credit shall be  
22 reassessed within the first year by the child care research and data  
23 collection taskforce and new stipulations shall be released in the final  
24 report of such taskforce and regulated by the New York state child care  
25 board.

26 3. The New York child care board shall allocate time toward the expan-  
27 sion and cost of a drop-in program.

28 § 410-ee. Application and eligibility for families. 1. The department  
29 shall mandate that all social services districts provide qualified agen-  
30 cies approved for the early learning child care program with the proper  
31 forms for families to complete an application to the program for their  
32 covered child. Such application forms shall be processed by the social  
33 services district and shall be made available: (a) online in a print-  
34 able, and fillable format on the website of the relevant social services  
35 district; and (b) in a translated version of the three to six most  
36 commonly spoken languages in the relevant social services district,  
37 either in-print or online. Qualified agencies shall provide families who  
38 seek enrollment at their local child care and early learning program  
39 information on how to contact their local social services district and  
40 child care resource and referral agencies for help in applying to the  
41 program.

42 2. Families may apply to a local child care and early learning program  
43 in such form and at such time as the executive director of the New York  
44 state child care board may prescribe, provided, however that such appli-  
45 cation shall require: proof of earnings, proof of identity, proof of  
46 residency, and proof of whether a child is registered in a universal  
47 prekindergarten program pursuant to section thirty-six hundred two-e of  
48 the education law and, if registered, for how many hours per day.

49 3. Applicants may prove earnings by providing: (a) proof of earnings  
50 through the presentation of a filed tax return from the previous year,  
51 or if proof of income through tax return is not possible the commission-  
52 er may allow a letter from an employer documenting the dates of work of  
53 the applicant and the yearly pay from the employer; (b) a form W-2 or  
54 1099 from at least one of the two most recent completed tax years; or  
55 (c) a wage notice provided pursuant to section one hundred ninety-five  
56 of the labor law that documents employment for a period of time within

1 six months prior to the date the applicant certifies he or she became  
2 eligible for benefits pursuant to this title.

3 4. Applicants may prove identity by providing:

4 (a) A driver's license, motor vehicle ID card number, valid foreign  
5 driver's license that includes a photo image of the applicant and which  
6 is unexpired or expired for less than twenty-four months of its date of  
7 expiration, New York state ID, IDNYC or other New York municipal or  
8 county identification card, valid unexpired foreign passport issued by  
9 the applicant's country of citizenship, or valid unexpired consular  
10 identification document issued by a consulate from the applicant's coun-  
11 try of citizenship. Nothing contained in this subdivision shall be  
12 deemed to preclude the commissioner from approving additional proofs of  
13 identity; or

14 (b) A social security number or, in lieu thereof, an individual  
15 taxpayer identification number or a United States citizenship and immi-  
16 gration services number; or

17 (c) The names and addresses of all employers and/or hiring parties, in  
18 and out of the state, for the last eighteen months to the extent that  
19 such information is available to the applicant; or

20 (d) A mailing address and zip code.

21 5. Applicants may prove residency by providing: (a) a New York state  
22 driver's license or state identification card, an IDNYC; (b) a utility  
23 bill with a proper address and listed under the applicant's confirmed  
24 identity, or a credit card statement with a proper address and listed  
25 under the applicant's confirmed identity; or (c) a lease agreement or  
26 mortgage statement with a proper address and listed under the appli-  
27 cant's confirmed identity, a letter from the New York city housing  
28 authority, a letter from a homeless shelter, or any additional form of  
29 government identification or identification approved by the department  
30 and the New York state child care board.

31 6. Prekindergarten eligible children who apply to attend the early  
32 learning child care program shall provide documentation proving the  
33 number of hours a child attends a prekindergarten program, whether no  
34 hours or a full school day.

35 7. Families shall be found eligible for financial assistance using an  
36 income eligibility fee scale based on the current federal poverty line  
37 and adjusted for the size of the family. No co-payments shall be  
38 assigned to families of covered children.

39 8. A fee under this section shall be charged to families of a covered  
40 child based on income levels as follows:

41 (a) A covered child who is in a family with an income that is less  
42 than four hundred percent of the poverty line shall be assessed no fee  
43 for service and receive free child care.

44 (b) A covered child who is in a family with a family income that is  
45 more than four hundred percent of the poverty line but not more than  
46 five hundred percent of the poverty line, the fee under this section  
47 shall not exceed one percent of the family income.

48 (c) A covered child who is in a family with a family income that is  
49 more than five hundred percent of the poverty line but not more than six  
50 hundred percent of the poverty line, the fee under this section shall  
51 not exceed two percent of the family income.

52 (d) A covered child who is in a family with a family income that is  
53 more than six hundred percent of the poverty line but not more than  
54 seven hundred percent of the poverty line, the fee under this section  
55 shall not exceed three and one-half percent of the family income.

1 (e) A covered child who is in a family with a family income that is  
2 more than seven hundred percent of the poverty line but not more than  
3 eight hundred percent of the poverty line, the fee under this section  
4 shall not exceed four and one-half percent of the family income.

5 (f) A covered child who is in a family with a family income that is  
6 more than eight hundred percent of the poverty line but not more than  
7 nine hundred percent of the poverty line, the fee under this section  
8 shall not exceed six percent of the family income.

9 (g) A covered child who is in a family with a family income that is  
10 more than nine hundred percent of the poverty line but not more than one  
11 thousand percent of the poverty line, the fee under this section shall  
12 not exceed seven percent of the family income.

13 9. The total fee for a family that is subject to the fee under this  
14 section and has more than one child served through the program: (a) may  
15 increase as the family enters a second or further child in the program;  
16 but (b) may not be greater than the fee allowed under paragraph (g) of  
17 subdivision eight of this section.

18 10. Within fourteen days of completing an application, the local  
19 social services district shall provide families of a covered child with  
20 a response on whether the child is eligible for financial assistance,  
21 unless the local jurisdiction is facing extenuating circumstances.

22 11. Early learning child care programs shall provide families informa-  
23 tion on whether there is capacity in the facility of the qualified agen-  
24 cy or whether the family needs to coordinate with the child care  
25 resource and referral program to find an open spot in another closely  
26 located qualified agency.

27 12. Qualified agencies shall comply with existing state antidiscrimi-  
28 nation laws with regard to admittance of eligible children.

29 § 410-ff. Child care stabilization grant. 1. The office of children  
30 and family services shall establish a stabilization grant program to  
31 help deal with a worker shortage within the child care industry within  
32 sixty days of the effective date of this title.

33 2. Technical assistance and support shall be made available by child  
34 care resource and referral agencies, in addition to other designated  
35 partners, to all child care providers to assist with the completion of  
36 the online application.

37 § 410-gg. Expansion grants; tax incentives. 1. In collaboration with  
38 the child care resource and referral program, the early childhood advi-  
39 sory council established pursuant to section four hundred eighty-three-g  
40 of this chapter shall create an expansion grant program proposal within  
41 one hundred eighty days of the effective date of this title. The  
42 proposal shall be submitted for review and adoption, rejection or  
43 modification by the New York state child care board. Such expansion  
44 grant program shall dedicate funding to eligible agencies for: (a)  
45 construction of suitable facilities; (b) plans to incorporate eligible  
46 child care providers into the START-UP NY program; and (c) the creation  
47 of a capital debt services plan based on the amount of funding.

48 2. (a) In fiscal year two thousand twenty-two, the office of children  
49 and family services shall dedicate a portion of annual dedicated funds  
50 for the early learning child care program to expansion grants and tax  
51 incentives. Spending of funds shall be based on a plan created after  
52 surveying social services districts and learning of their needs.

53 (b) In all subsequent fiscal years, the department shall dedicate no  
54 more than thirty percent and no less than five percent of dedicated  
55 funding for the program on expansion grants.

(c) The office of children and family services shall decide exact funding amounts based on the needs of eligible child care agencies and the overall health of the child care system in New York state.

§ 410-hh. Training, technical assistance and professional development funding. 1. In collaboration with the child care resource and referral program, the early childhood advisory council shall create a training and professional development grant program proposal within one hundred days of the effective date of this title. The proposal shall be submitted for review and adoption, rejection or modification by the New York state child care board.

2. (a) In fiscal year two thousand twenty-two, the office of children and family services shall dedicate a portion of all dedicated funds for the early learning child care program to the professional development and training of staff and eligible agencies. Spending of funds shall be based on a plan created after surveying social services districts and learning of their needs.

(b) In all subsequent fiscal years, the department shall dedicate no more than thirty percent and no less than five percent of dedicated funding for the program on training and professional development. The office of children and family services shall decide exact funding amounts based on the needs of eligible child care agencies, needs of the workforce, and the overall health of the child care system in New York state.

3. The plan shall use a portion of the funds decided upon by the office of children and family services to improve the quality of child care services, which shall include:

(a) supporting the training and professional development of the early childhood workforce, including supporting degree attainment through student loan repayment assistance and credentialing for early childhood educators pursuant to this section;

(b) supporting mandates to require the aspire registry for all early childhood care and education employees to enhance professional growth and program compliance.

4. There shall be established a need-based student loan repayment assistance program for the purpose of providing student loan repayment assistance to any individual employed by a regulated, privately operated center-based child care program or family child care home. Such program shall require that:

(a) An eligible individual shall:

(i) work in a privately operated center-based child care program or in a family child care home that is regulated by the department for at least an average of thirty hours per week for forty-eight weeks of the year;

(ii) have earned an associate's, bachelor's, or advanced degree with a major concentration in early childhood, child and human development, elementary education, special education with a birth to age eight focus, child and family services, or other relevant field within the preceding five years; and

(iii) submit to the office of children and family services documentation expressing the individual's intent to work in a regulated, privately operated center-based child care program or family child care home for at least the twelve months following the annual loan repayment award notification. A participant may receive up to four thousand dollars annually in student loan repayment assistance, which shall be distributed by the department in four allotments. The department shall distribute at least one-quarter of the individual's total annual benefit after



1 the individual has completed three months of employment in accordance  
2 with the program. The remainder of an individual's total annual benefit  
3 shall be distributed by the department every three months after the  
4 initial payment.

5 (b) The department shall adopt policies, procedures, and guidelines  
6 necessary to implement the provisions of this section.

7 (c) Student loan repayments shall be available pursuant to this  
8 section on a first-come, first-served basis until appropriated funds are  
9 depleted.

10 (d) The department may contract for the administration of the program.  
11 Administration costs shall not be more than ten percent of the total  
12 appropriation received to implement this section.

13 5. The department shall provide supports to aid eligible providers in  
14 providing trauma-informed care. Trauma-informed care supports may be  
15 used by eligible agencies for the following purposes:

16 (a) additional compensation for individual staff who have an infant  
17 and early childhood mental health or other child development specialty  
18 credential;

19 (b) trauma-informed professional development and training;

20 (c) the purchase of screening tools and assessment materials;

21 (d) supportive services for children with complex needs that are  
22 offered as fee-for-service within local communities; or

23 (e) other related expenses.

24 § 410-ii. Coordination and integration of funds. 1. The commissioner  
25 and the executive director of the early learning child care program  
26 shall coordinate to integrate all federal and state dollars used for the  
27 block grant child care program pursuant to title five-C of this article  
28 to ensure an efficient child care system and adequate care for all chil-  
29 dren.

30 2. Any other child care programming by the state and localities shall  
31 integrate and coordinate with the early learning child care program.

32 3. The state education department and the office of children and fami-  
33 ly services shall coordinate and share data with each other to make sure  
34 that children between the ages of three to four are properly cared for  
35 and can participate in the programs of their choosing.

36 § 410-jj. Reporting requirements. Each social services district shall  
37 collect and submit to the office of children and family services, in  
38 such form and at such times as specified by the department, such data  
39 and information regarding child care assistance provided under the early  
40 learning child care program in accordance with criteria established by  
41 the department and the New York state child care board. The office of  
42 children and family services shall create, oversee, and update a data-  
43 base of all child care facilities in the state. Such database shall be  
44 updated on a minimum of a bi-weekly basis by each social services  
45 district and shall include: (a) contact information for each child care  
46 facility; (b) current full or part-time care availability; and (c)  
47 whether drop-in care is available.

48 § 410-kk. Enforcement. 1. The New York state child care board shall  
49 have the authority to adopt rules and regulations written by the office  
50 of children and family services pertaining to oversight and enforcement  
51 actions of the early learning child care program.

52 2. Enforcement actions undertaken by the office of children and family  
53 services shall be proportional to the severity of violations observed in  
54 a licensed child care facility. The New York state child care board  
55 shall develop a framework to establish levels of violations and appro-

1 priate enforcement actions for violations pursuant to section four  
2 hundred seventeen of this article.

3 (a) Violations that are non-critical code violations, and are not a  
4 safety risk to children or providers, shall be documented by written  
5 warning or reprimand to the provider. Such written warning or reprimand  
6 shall contain options to remediate the violation, a clear timeline to  
7 reach compliance, and the penalty for non-compliance.

8 (b) The office shall post violations in a publicly accessible manner  
9 that provides clarity and context of the type of violation that occurred  
10 and the severity of the violation, without stigmatizing providers.

11 (c) Inspection results shall clearly denote if violations have been  
12 remedied.

13 (d) Enforcement history shall only be listed in cases of denial, revo-  
14 cation, or suspension of a child care program's license or registration.  
15 Non-public enforcement actions, such as corrective plans of action or  
16 finances, shall not be listed or referenced.

17 3. Local social services districts have the right to perform  
18 inspections of any provider that provides care for subsidized children.  
19 A social services district shall notify the office immediately of any  
20 violations of regulations and shall provide the office with an  
21 inspection report documenting the results of such inspection.

22 (a) The office shall work to mediate and assist providers in remediating  
23 violations found from an inspection performed therein. Regional  
24 managers under the office of children and family services shall deploy  
25 staff and/or resources to aid this effort.

26 (b) Office of children and family services staff who are involved with  
27 enforcement of remediation efforts shall undergo cultural-competency  
28 training to effectively work with providers of all backgrounds, includ-  
29 ing but not limited to race, ethnicity, gender, sexual orientation,  
30 religion, and other protected classes.

31 § 410-11. Taskforce to study after school programming for five to  
32 twelve year old children and crisis care. 1. Within the office of chil-  
33 dren and family services, there shall be established a taskforce for the  
34 purpose of studying the need for after school programming for children  
35 up to twelve years of age who are not covered by the early learning  
36 child care program and the need for crisis care.

37 2. The taskforce shall be chaired by a representative of the executive  
38 chamber and the commissioner of the office of children and family  
39 services or their designee. Members of the taskforce shall serve without  
40 compensation for a one year term, but may be reimbursed for actual costs  
41 incurred for participation on such taskforce. Ensuring adequate  
42 geographic representation, members of the taskforce shall be appointed  
43 by the governor and comprised as follows:

44 (a) three individuals shall be appointed upon the recommendation of  
45 the speaker of the assembly from different regions of the state;

46 (b) three individuals shall be appointed upon the recommendation of  
47 the temporary president of the senate from different regions of the  
48 state;

49 (c) one individual shall be appointed upon the recommendation of the  
50 minority leader of the assembly;

51 (d) one individual shall be appointed upon the recommendation of the  
52 minority leader of the senate; and

53 (e) at least one representative from each of the following entities:

54 (i) the office of temporary and disability assistance;

55 (ii) the council on children and families;

56 (iii) the department of taxation and finance;

(iv) a regional economic development council;  
(v) the state university of New York or the city university of New York;  
(vi) the state education department;  
(vii) the early childhood advisory council;  
(viii) a social services district or county government or an entity that advocates on behalf of social services or county governments;  
(ix) a non-profit child care advocacy organization;  
(x) a department of education operated after school program;  
(xi) a privately operated after school program;  
(xii) a commercial real estate specialist; and  
(xiii) a crisis care specialist or provider.

3. The taskforce shall examine the following:

(a) the current availability and usage of subsidized after school programming and care options;  
(b) the needs for and costs associated with subsidizing after school programming and care for all children under the age of twelve;  
(c) the demographic breakdown of children and their families who use and need after school programming and care;  
(d) whether parents are voluntarily leaving the workforce due to lack of affordable or accessible after school programming and care;  
(e) varying levels of quality of after school programming and care throughout the state with reporting;  
(f) the need and cost to subsidize the need of crisis care options for children who need overnight, emergency, and shelter based care; and  
(g) workforce demographics, needs and working conditions in the crisis care and after school programming industry.

4. The taskforce shall release a report within one year of the establishment of such taskforce. Such report shall contain the recommendations of the taskforce and shall be submitted to the New York state child care board.

§ 6. Article 6 of the social services law is amended by adding a new title 5-E to read as follows:

TITLE 5-E

NEW YORK STATE CHILD CARE BOARD

Section 410-aaa. Establishment of the New York state child care board.

410-bbb. Executive director.

410-ccc. Powers and duties of the board.

410-ddd. Powers and duties of the executive director.

410-eee. Ethics, transparency and accountability.

410-fff. Formal hearings; notice and procedure.

§ 410-aaa. Establishment of the New York state child care board. 1.  
The New York state child care board is hereby established within the  
office of children and family services and directed to work in collab-  
oration with the executive director of the early learning child care  
program to advise and issue recommendations on the health of child care  
and the early learning child care program in the state of New York.

2. The New York state child care board shall consist of thirteen  
voting, appointed members, along with a representative from the office  
of children and family services, the department of education, the  
department of labor, the department of health and the department of  
mental hygiene. The governor shall appoint seven members to the board  
and the temporary president of the senate and the speaker of the assem-  
bly shall each appoint three members to the board. The members shall be  
appointed to serve five-year terms and, in the event of a vacancy, the  
vacancy shall be filled in the manner of the original appointment for

1 the remainder of the term. The appointed members and representatives  
2 shall receive no compensation for their services but shall be allowed  
3 their actual and necessary expenses incurred in the performance of their  
4 duties as board members.

5 3. Board members shall have statewide geographic representation that  
6 is balanced and diverse in its composition. Appointed members shall have  
7 an expertise in early education and intervention, trauma-informed care,  
8 infant and early childhood mental health, child and human development,  
9 special education with a birth to age eight focus, public and behavioral  
10 health, or job training and professional development. The board shall  
11 include residents from communities most impacted by child care deserts,  
12 child care costs above the median, and low wages with little profes-  
13 sional development opportunities.

14 4. The governor shall nominate an executive director pursuant to  
15 section four hundred ten-bbb of this title that shall share responsibil-  
16 ity with the board in administering the program.

17 5. The members of the board shall elect a chairperson and a vice  
18 chairperson from among the members of the board. The vice chairperson  
19 shall represent the board in the absence of the chairperson at all offi-  
20 cial board functions. The board shall be authorized to adopt regu-  
21 lations to implement the provisions of this title. In developing such  
22 regulations, the board and the executive director shall consider and  
23 seek to coordinate any regulations which may currently be applicable to  
24 any existing programs or eligible agencies. When developing regulations,  
25 the board shall consider and recognize the diversity of settings and  
26 models available for the delivery of child care programs.

27 § 410-bbb. Executive director. The office shall exercise its authori-  
28 ty, other than powers and duties specifically granted to the board, by  
29 and through an executive director nominated by the governor and with the  
30 advice and consent of the senate. The executive director shall serve  
31 for a term of three years and once confirmed, may only be removed for  
32 good cause with appropriate notice. The executive director shall receive  
33 an annual salary not to exceed an amount appropriated therefor by the  
34 legislature and his or her expenses actually and necessarily incurred in  
35 the performance of his or her official duties, unless otherwise provided  
36 by the legislature.

37 § 410-ccc. Powers and duties of the board. 1. The New York state  
38 child care board shall have the authority to approve or reject all  
39 rules, regulations and orders made by the office of children and family  
40 services that it may deem necessary or proper to fully effectuate the  
41 provisions of the early learning child care program; provided, however,  
42 that the board shall approve regulations relating to, but not be limited  
43 to, the following:

44 (a) in relation to section four hundred ten-gg of this article, recom-  
45 mendations from the early childhood advisory council on the proper  
46 amount of funding needed for expansion grants, and startup funds and tax  
47 incentives in fiscal years two thousand twenty-three, two thousand twen-  
48 ty-four, and beyond to expand eligible agency facilities to hold the  
49 increased capacity needed to house and properly supply eligible agencies  
50 for the early learning child care program;

51 (b) in relation to section four hundred ten-hh of this article, recom-  
52 mendations from the early childhood advisory council on the proper  
53 amount of funding needed for technical assistance, training, and profes-  
54 sional development to sufficiently staff eligible agencies across the  
55 state in fiscal years two thousand twenty-three, two thousand twenty-  
56 four, and beyond;

1 (c) approving rules and regulations to properly regulate all parts of  
2 the early learning child care program, including rules regarding  
3 enforcement, pursuant to section four hundred ten-kk of this article,  
4 data collection, and reporting, pursuant to section four hundred ten-ii  
5 of this article;

6 (d) a definition of the approved expenditures for which grant funds  
7 may be used, which shall include, but not be limited to, transportation  
8 services and lease expenses or other appropriate facilities expenses;

9 (e) approving all other transitional guidelines and rules which allow  
10 a program to meet the required staff qualifications by the start of the  
11 two thousand twenty-three school year;

12 (f) approving transitional guidelines and rules which allow an early  
13 learning child care program to meet any other requirements set forth  
14 pursuant to this section and regulations adopted by the board and the  
15 executive director relating to health and safety standards;

16 (g) time requirements which reflect the needs of the social services  
17 districts for flexibility, but which also meet a minimum weekly time  
18 requirement;

19 (h) the staff/child ratio;

20 (i) reasonable grounds and basis for the non-acceptance of a proposal  
21 submitted to the early learning child care agency when the proposal  
22 otherwise meets, to the extent applicable, all the regulations of the  
23 requirements set forth in this subdivision, as well as subdivisions six,  
24 seven, and eight of section four hundred ten-bb of this article;

25 (j) any other program components, such as health, nutrition or support  
26 services, which the child care board deem appropriate and necessary for  
27 the appropriate and effective implementation of an early learning child  
28 care program;

29 (k) commencing July first, two thousand twenty-three, and continuing  
30 until June thirtieth, two thousand twenty-four, approving a plan that  
31 requires that the social services district give preference to serving  
32 eligible children who are living in economically distressed areas, as  
33 defined by section four hundred ten-aa of this article;

34 (l) approving a process by which an agency shall submit an application  
35 to a social services district; and

36 (m) approving a formula for a tax credit for drop-in care pursuant to  
37 section four hundred ten-dd of this article.

38 2. The board shall meet as frequently as its business may require. The  
39 board shall enact, and from time to time may amend, bylaws in relation  
40 to its meetings and the transactions of its business. A majority of the  
41 total number of voting members which the board would have, were there no  
42 vacancies, shall constitute a quorum and shall be required for the board  
43 to conduct business. All meetings of the advisory board shall be  
44 conducted in accordance with the provisions of article seven of the  
45 public officers law.

46 § 410-ddd. Powers and duties of the executive director. The executive  
47 director shall have the following powers and duties:

48 1. (a) To exercise the powers and perform the duties in relation to  
49 the administration of the early learning child care program as are not  
50 specifically vested or delegated by this chapter in the early learning  
51 child care board; and (b) to oversee social services districts adminis-  
52 tration of the law.

53 2. To keep records in such form as they may prescribe of all certif-  
54 ications and licenses.

55 3. To inspect or provide for the inspection of any premises where an  
56 early learning child care program is located.



1 4. To prescribe forms of applications for certifications, licenses and  
2 contracts under this chapter and of all reports deemed necessary by the  
3 board.

4 5. To inspect or provide for the inspection of any certified premises  
5 where an early learning child care program is being administered.

6 6. To prescribe forms for applications for certifications and licenses  
7 under this chapter and of all reports deemed necessary by the board.

8 7. To delegate the powers authorized in this section to such other  
9 officers or employees as may be deemed appropriate by the executive  
10 director.

11 8. To exercise the powers and perform the duties as delegated by the  
12 board in relation to the administration of the board as are necessary,  
13 including but not limited to budgetary and fiscal matters.

14 9. To enter into contracts, memoranda of understanding, and agreements  
15 to effectuate the policy and purpose of this chapter.

16 10. To advise and assist the board in carrying out any of its func-  
17 tions, powers and duties.

18 11. To coordinate across state agencies and departments in order to  
19 research and study any changes in child care use, costs, adminis-  
20 tration, and all related fields.

21 12. To issue guidance and industry advisories.

22 § 410-eee. Ethics, transparency and accountability. No member of the  
23 board or office of children and family services or any officer, deputy,  
24 assistant, inspector or employee, or spouse or minor child of such  
25 member, officer, deputy, assistant, inspector or employee thereof shall  
26 have any interest, direct or indirect, either proprietary or by means of  
27 any loan, mortgage or lien, or in any other manner, in or on any prem-  
28 ises where child care is provided; nor shall he or she have any inter-  
29 est, direct or indirect, in any business wholly or partially devoted to  
30 child care, or own any stock in any corporation which has any interest,  
31 proprietary or otherwise, direct or indirect, in any premises where  
32 child care is provided, or receive any commission or profit whatsoever,  
33 direct or indirect, from any person applying for or receiving any subsi-  
34 dy or grant in this program, or hold any other elected public office in  
35 the state or in any political subdivision. After notice and opportunity  
36 to be heard, anyone found to have knowingly violated any of the  
37 provisions of this section shall, after notice, be removed and shall  
38 divest themselves of such direct or indirect interests, in addition to  
39 any other penalty provided by law.

40 § 410-fff. Formal hearings; notice and procedure. 1. The board, or any  
41 person designated by the board for this purpose, may issue subpoenas and  
42 administer oaths in connection with any hearing or investigation under  
43 or pursuant to this chapter, and it shall be the duty of the board and  
44 any persons designated by the board for such purpose to issue subpoenas  
45 at the request of and upon behalf of the respondent.

46 2. The board and those designated by the board shall not be bound by  
47 the laws of evidence in the conduct of hearing proceedings, but the  
48 determination shall be founded upon a preponderance of evidence to  
49 sustain it.

50 3. Notice and right of hearing as provided in the state administrative  
51 procedure act shall be served at least fifteen days prior to the date of  
52 the hearing, provided that, whenever because of danger to the public  
53 health, safety or welfare it appears prejudicial to the interests of the  
54 people of the state to delay action for fifteen days, the board may  
55 serve the respondent with an order requiring certain action or the

1 cessation of certain activities immediately or within a specified period  
2 of less than fifteen days.

3 4. Service of notice of hearing or order shall be made by personal  
4 service or by registered or certified mail. Where service, whether by  
5 personal service or by registered or certified mail, is made upon an  
6 incompetent, partnership, or corporation, it shall be made upon the  
7 person or persons designated to receive personal service by article  
8 three of the civil practice law and rules.

9 5. At a hearing, that to the greatest extent practicable shall be  
10 reasonably near the respondent, the respondent may appear personally,  
11 shall have the right of counsel, and may cross-examine witnesses against  
12 him or her and produce evidence and witnesses on his or her behalf.

13 6. Following a hearing, the board may make appropriate determinations  
14 and issue a final order in accordance therewith.

15 7. The board may adopt, amend and repeal administrative rules and  
16 regulations governing the procedures to be followed with respect to  
17 hearings, such rules to be consistent with the policy and purpose of  
18 this article and the effective and fair enforcement of its provisions.

19 8. The provisions of this section shall be applicable to all hearings  
20 held pursuant to this article, except where other provisions of this  
21 article applicable thereto are inconsistent therewith, in which event  
22 such other provisions shall apply.

23 § 7. This act shall take effect immediately; provided, however that  
24 subdivision 3 of section 410-aa of the social services law as added by  
25 section five of this act shall take effect September 1, 2023.