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Transforming Minnesota's Early Care and Education Infrastructure

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Transforming Minnesota's Early Care and Education Infrastructure

From Building Back Better to Ensuring a Great Start for All, a Proposed Pathway for Progress

May 15, 2022

Professor Knapp

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I certify that this document contains 16633 words (excluding footnotes).

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Introduction

In 2021, the Minnesota legislature authorized the Great Start for All task force to present recommendations for how the state can provide “access to affordable, high-quality early care and education that enriches, nurtures, and supports children and their families,” to “all families” in Minnesota.²

The early care and education landscape in Minnesota has experienced dramatic changes in programming and investments over the last twenty years. In the early 2000s, the state’s primary child care subsidy program, the Child Care Assistance Program (CCAP), was moved from the Department of Children, Families and Learning to the Department of Human Services in an administrative restructuring. For several years after this change, partially as a result of the Great Recession, the program experienced disinvestment leaving it significantly behind other state subsidy programs.

While the state was disinvesting in child care, economic researchers at the Federal Reserve Bank of Minneapolis was publishing groundbreaking research in the high public return of investment in quality early childhood development programs.³

Instead of re-investing in CCAP, the state instead invested in multiple pilot programs and/or partial early childhood investments, most notably the Early Learning Scholarship program.⁴ While well-intentioned, the abundance of programs led to a complex and confusing system, for both families and early care and education providers, as highlighted by a 2018 Office of Legislative Auditor (OLA) audit of Early Childhood Programs.⁵

Meanwhile, nationally early care and education was gaining supporters. In 2014, Congress reauthorized the Child Care Development Block Grant Act⁶ with bipartisan support. This bill governs the Child Care and Development Fund, the federal block grant that funds child care subsidy programs, as well as child care licensing and workforce development activities in states, including CCAP in Minnesota. This bill was a transformational opportunity to better balance the work support functions of child care subsidy and the needs of developing children.

States were expected to make changes to their state programs within the next few years to come into federal compliance with new regulations. Unfortunately, Minnesota’s efforts to comply with the new federal law were hampered by a divided legislature and allegations of widespread fraud. Although investigation by the Office of the Legislative Auditor (OLA) was

² Minnesota 2021 Session Law, First Special Session, Chapter 7, Article 14, Section 18, Subd. 2.

³ Art Rolnick & Rob Grunewald, *Early Childhood Development: Economic Development with a High Public Return*, Fed. Res. Bank Minneapolis (Mar. 1, 2003), <https://www.minneapolisfed.org/article/2003/early-childhood-development-economic-development-with-a-high-public-return>.

⁴ See *Early Learning Scholarships Program*, Minn. Dep’t Educ., <https://education.mn.gov/mde/fam/elsprog/elschol/> (last visited Jan. 22, 2022).

⁵ Minn. Off. Legis. Auditor, *Early Childhood Programs: 2018 Evaluation Report* (Apr. 26, 2018), <https://www.auditor.leg.state.mn.us/ped/pedrep/earlychildhood.pdf> [hereinafter OLA *Early Childhood Programs*].

⁶ See *Child Care and Development Fund Reauthorization*, Admin. Children & Families, <https://www.acf.hhs.gov/occ/ccdf-reauthorization> (last visited Jan. 22, 2022).

unable to substantiate the level of fraud reported,⁷ the allegations made substantial changes to the program politically contentious. Further, the OLA found a need for more robust internal controls,⁸ but the outdated technology system that manages the program needs substantial investment to implement the recommended measures.

Today, the Great Start for All task force provides an opportunity for transformational change in the early care and education landscape. Unfortunately, many in the early care and education community are pessimistic about the task force putting forward a proposal that is both substantive and implementable. Those invested in early care and education struggle to reconcile the promise of high-quality care, on-going disparities in access and workforce development, and how to create government programs with program integrity measures that work for families, early care and education providers, and funders.

Part One of this paper will provide contextual information about early care and education and the history of public investment, or lack thereof, across the country. Part Two of this paper will identify and summarize the primary challenges and opportunities in Minnesota's early care and education ecosystem and reform efforts over the last decade. Part Three of this paper will lay priorities and a pathway for progress that could be implemented at the state level to realize a universal, affordable, high-quality early care and education system for all Minnesota children.

Part One: Child Care and Government Funding Background

Child care serves many purposes. Child care is an economic driver both because it allows parents of young children the opportunity to work and serves as a source of jobs and economic activity as an industry. Child care is also an important component of children's child development and can, and when its quality is sufficiently high, produces long-term gains in the lifetime trajectories of children who attend. In fact, most brain development occurring in a person's life happens in their first few years.⁹ Recognizing these features of quality early care and education settings and the failure of the private market to provide for universal, equitable, and affordable access to such settings, informs the movement to correct chronic public underfunding in child care.¹⁰

History of Government-subsidized Child Care

While most industrialized nations recognize the crucial importance of subsidizing child care,¹¹ the United States provides only minimal financial supports to most families through tax credits or child care subsidies for the poorest of families through programs that do not fully provide for

⁷ Minn. Off. Legis. Auditor, *Child Care Assistance Program: Assessment of Fraud Allegations (Special Review)* (March 13, 2019), <https://www.auditor.leg.state.mn.us/sreview/ccap.pdf> [hereinafter *OLA Fraud Allegations*].

⁸ Minn. Off. Legis. Auditor, *Child Care Assistance Program: Assessment of Internal Controls (Special Review)* (Apr. 10, 2019), (<https://www.auditor.leg.state.mn.us/sreview/ccapic.pdf> [hereinafter *OLA Internal Controls*]).

⁹ See, e.g., Nat'l Sci. Council Developing Child, *The Science of Early Childhood Development: Closing the Gap Between What We Know and What We Do* (2007), <http://www.developingchild.net>.

¹⁰ See Rolnick & Grunewald *supra* note 3.

¹¹ See *Net child care costs*, data.oecd.org, <https://data.oecd.org/benwage/net-childcare-costs.htm> (last visited Jan. 22, 2022).

all families in poverty. Except during World War II, when child care for mothers who needed to enter the work force was subsidized through the Lanham Act,¹² attempts for a publicly-funded “universal child care system”¹³ have failed¹⁴ or been limited to certain portions of the population.¹⁵

For families with low incomes, the primary public support for child care costs comes through the Child Care Development Block Grant, through which states receive funds to establish child care subsidy programs.¹⁶ However, despite recent investments in the program, funds can only be expended for families making less than 85% of their state median income, and many states set lower thresholds for eligibility¹⁷ and may still have waiting lists for service.¹⁸

There are other publicly-funded programs for young children, including Head Start and publicly-funded prekindergarten programs.¹⁹ While these programs do provide some degree of child care for working families, their primary purpose is educational, and many provide inflexible hours that may not allow parents to work full-time hours while their child attends the program. Most Head Start programs are offered by Community Action Agencies²⁰ and provide comprehensive

¹² See Rhaina Cohen, *Who Took Care of Rosie the Riveter’s Kids?*, Atlantic (Nov. 18, 2015) <https://www.theatlantic.com/business/archive/2015/11/daycare-world-war-rosie-riveter/415650/> (last visited Jan. 22, 2022); Andrea Hsu, *The American Government Once Offered Widely Affordable Child Care ... 77 Years Ago*, NPR (Oct. 21, 2020) <https://www.npr.org/2020/10/31/927267330/the-american-government-once-offered-widely-affordable-child-care-77-years-ago>, (last visited Jan. 22, 2022).

¹³ Hsu *supra* note 12.

¹⁴ See President Richard Nixon’s veto of the Office of Economic Opportunity, (Dec. 10, 1971) retrieved from N.Y. Times, <https://www.nytimes.com/1971/12/10/archives/excerpts-from-nixons-veto-message.html>.

¹⁵ For example, programs for children from families with low incomes or expanding K-12 schools to provide prekindergarten programming.

¹⁶ See Lilian Mongeau, *High-quality child care is too expensive. Government subsidies are too low to help*. USA Today (June 29, 2020 8:46 AM), <https://www.usatoday.com/story/news/education/2020/06/28/daycare-cost-child-care-center-assistance/3268142001/>.

¹⁷ See OFF. PLAN., RES. & EVALUATION, OPRE REP. 2021-07, *KEY CROSS-STATE VARIATIONS IN CCDF POLICIES AS OF OCTOBER 1, 2019: THE CCDF POLICIES DATABASE BOOK OF TABLES*, 29 (Dec. 2020) (noting that “[f]orty-one States” use “different eligibility thresholds during the eligibility period than at initial eligibility” means that the majority of states set a threshold lower than 85% of SMI at initial eligibility determination because the states must allow family income to increase to 85% of SMI during the eligibility period but cannot pay at all if the family exceeds that income limit.), retrieved from <https://www.acf.hhs.gov/opre/report/key-cross-state-variations-ccdf-policies-october-1-2019-ccdf-policies-database-book>.

¹⁸ See *id.* at 308 (reporting that 37 States/Territories have a waiting list).

¹⁹ These vary greatly by state and school district. For example, while Minnesota offers three state-wide funding streams for school districts to offer early care and education services to children before prekindergarten: Voluntary Prekindergarten, School Readiness Program, and School Readiness Plus. Each of these programs have slightly different eligibility requirements and schools may offer combinations of the programs in addition to fee-for-service programs for children in families that do not qualify. See OLA *Early Childhood Programs supra* note 5.

²⁰ “Head Start programs deliver services through 1,600 agencies in local communities. Most Head Start programs are run by non-profit organizations, schools, and community action agencies.” Off. Head Start, *Head Start Programs*, <https://www.acf.hhs.gov/ohs/about/head-start> (last visited Jan. 22, 2022).

services for families and early learning experiences, but many follow a school year schedule or only offer part-day programming, leading to significant child care gaps.

Child Care vs. Education

Current policy and systems differentiate between programs that provide child care versus programs that are for educational purposes, but modern scientific understanding of brain development suggests this differentiation is meaningless. Children are born to be “learning machines. They build themselves, or adapt, to the environment at hand. . . . Every touch, movement, and emotion is translated into electrical and chemical activity that shifts the forward genetic momentum, subtly modifying the way a child’s brain is wired together.”²¹ Whether a child is in their home, at school, or in child care, the environment and interactions with the people around them will be shaping the child’s growth and development.

Unfortunately, public policy has not caught up with scientific knowledge. Although part of the challenge is in funding and inherent difficulties in changing the status quo, there are also attitudinal barriers to considering child care as education. Several decades ago, “There were still significant parts of the country where a discussion about public policy related to early childhood began and ended with a sole focus on parent responsibility[.] For m]any policymakers . . . there was ‘no reason to be talking about public programs for infants and toddlers’ because, in their view, the care and education of children that young was a private, family matter.”²²

Perversely, this bifurcation in education and child care works both ways. The COVID-19 pandemic has laid bare the failure to recognize the role that our K-12 education plays in providing child care to working parents, particularly mothers. “At the onset of the pandemic, the share of mothers actively working . . . declined 21.1 percentage points while the share of fathers dropped 14.7 points.”²³ While most school age children are now back in the classroom, continued workforce shortages are being exacerbated by the unavailability of child care.²⁴ “Covid-19 has taught us a lot of things, but one critical thing its showed us is how important child care is to a functioning economy.”²⁵

While accepting the role that K-12 education plays in child care may be forthcoming post-pandemic, recognizing child care as education could have significant cultural and legal

²¹ LISE ELLIOT, WHAT’S GOING ON IN THERE? HOW THE BRAIN AND MIND DEVELOP IN THE FIRST FIVE YEARS OF LIFE, 8-9 (1999).

²² CENTER ON THE DEVELOPING CHILD, A DECADE OF SCIENCE INFORMING POLICY: THE STORY OF THE NATIONAL SCIENTIFIC COUNCIL ON THE DEVELOPING CHILD, 3 (2014).

²³ Misty L. Heggeness, et. al, *Tracking Job Losses for Mothers of School-Age Children During a Health Crisis*, U.S. Census Bureau (MARCH 3, 2021), <https://www.census.gov/library/stories/2021/03/moms-work-and-the-pandemic.html>.

²⁴ See Alicia Wallace, *Child care workers are vanishing and it’s hurting the entire economy*, CNN.com (Jan. 28, 2022, 9:46 AM), <https://www.cnn.com/2022/01/28/economy/child-care-labor-force-declines/index.html>.

²⁵ Anneken Tappe, *The Economy can’t recover until parents have child care again*, CNN.com (May 2, 2020, 12:45 PM), <https://www.cnn.com/2020/05/02/economy/reopening-economy-child-care-wellness/index.html> (quoting “Frances Donald, chief economist and head of macro strategy and Manulife Investment Management.”).

ramifications, especially in light of state constitutional language that acknowledges education as a right in most states.

Right to Education

Although there is no recognized federal fundamental right to an education,²⁶ every state has included a right to education as part of its state constitution.²⁷ Minnesota’s Constitution requires “the legislature to establish a general and uniform system of public schools,”²⁸ because “[t]he stability of a republican form of government depend[s] mainly upon the intelligence of the people[.]”²⁹ Minnesota’s education clause was part of the original Minnesota Constitution “established in 1857.”³⁰

Recently, a coalition of advocates has been urging for a change in Minnesota Constitutional language, known as the “Page Amendment” to “establish education as a paramount duty of the state”³¹ and change funding language with the intention of elevating “conversations around education and equity”³² converting the legislature’s duty to establish a system of public schools to granting a civil right to education to children in Minnesota.³³ The amendment has bipartisan support and opposition leading to significant uncertainty about whether it will be put forward to voters.³⁴

Regardless of what constitutional language succeeds, there has yet to be any finding that a right to “education” includes early care and education in Minnesota. However, based on the science that has coalesced around early care and education and the foundational development that occurs in the first few years of life, this distinction may no longer make practical or legal sense. Early care and education and the establishment of universal systems to support families and children was a significant political issue in the 2020 presidential election, with numerous candidates pushing for large-scale federal investment in child care infrastructure.³⁵

²⁶ See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 93 S. Ct. 1278 (1973).

²⁷ See Emily Parker, EDUC. COMM’N OF THE STATES, 50 STATE REVIEW: CONSTITUTIONAL OBLIGATIONS FOR PUBLIC EDUCATION (Mar. 2016), <https://www.ecs.org/wp-content/uploads/2016-Constitutional-obligations-for-public-education-1.pdf>.

²⁸ MINN. CONST. art. XIII, § 1.

²⁹ *Id.*

³⁰ *About*, ourchildrenmn.com, <https://ourchildrenmn.com/about/> (last visited Jan. 31, 2022).

³¹ *Id.*

³² *Id.*

³³ See Melissa Turtnen, *Page Amendment: Push to change constitution to close education gaps returns to MN Capitol*, BringMeTheNews.com (Feb. 15, 2021), <https://bringmethenews.com/minnesota-news/page-amendment-push-to-change-constitution-to-close-education-gaps-returns-to-mn-capitol> (last visited Jan. 31, 2022).

³⁴ See *id.*; Peter Callaghan, *Why a new push for the ‘Page Amendment’ could end up being one of the 2022 Legislature’s biggest fights*, MinnPost.com (Jan. 18, 2022), <https://www.minnpost.com/state-government/2022/01/why-a-new-push-for-the-page-amendment-could-end-up-being-one-of-the-2022-legislatures-biggest-fights/> (last visited Jan. 31, 2022).

³⁵ See Claire Cain Miller, *Public School is a Child’s Right. Should Preschool Be Also?* N.Y. Times (Nov. 8, 2021), <https://www.nytimes.com/2020/03/15/upshot/universal-child-care-democratic-platform.html> (last visited Jan. 31, 2022).

Nationally, some have argued that “[a]ccess to publicly financed preschool looms as the next big issue in education law and policy.”³⁶ While thus far only one state has recognized a limited constitutional right to preschool,³⁷ the decision directly referenced both the state constitution’s requirement to “a thorough and efficient education for all of our children,”³⁸ and “that substantive, quality early-childhood education does make a difference.”³⁹ While three additional lower state courts also determined a right to preschool for some young children, all of these cases were overturned at a higher state court.⁴⁰ Ultimately, “in states that have recognized or can be persuaded to recognize a right to an adequate education, there are strong legal arguments for a right to preschool.”⁴¹ Further, “there are a number of strong theories upon which to rest”⁴² claims for a right to preschool in “states that have recognized – or will recognize in the future – a constitutional right to equal educational opportunity.”⁴³

Although a judicial pathway may have promise, in the last two decades since *Abbott*, there has not been any organized efforts to advocate for legal challenges to establish that state constitutional rights to education include child care arrangements for children ages birth to five. Instead, scientists, economists, and advocates have focused on impacting state policymakers to legislatively provide for affordable, accessible, high-quality child care arrangements.⁴⁴ These efforts have been somewhat successful in establishing pilot programs and limited supports for families with very low incomes but have yet to create a universal system equivalent to the K-12 public education system.

Another nuanced aspect of the right to education occurs in the context of undocumented children. For primary and secondary education, the Supreme Court has ruled that children cannot be denied access to public education settings based on their citizenship status or legal presence in the United States.⁴⁵ However, this ruling has not extended into existing child care subsidy policies. For example, in Minnesota, Child Care Assistance Program (CCAP) benefits are considered a benefit to the child so family members not receiving child care do not have to provide or document their citizenship or immigration status. However, “when child care is provided in a setting not subject to public educational standards, the CCAP agency must verify . . . the citizenship and immigration status of the child for whom child care assistance is sought.”⁴⁶

³⁶ James E. Ryan, *A Constitutional Right to Preschool*, 94 CALR 49, 49 (Jan. 2006).

³⁷ *Abbott ex rel. Abbott v. Burke*, 748 A.2d 82 (N. J. 2000).

³⁸ *Id.* at 102.

³⁹ *Id.*

⁴⁰ See Ryan *supra* note 36 at 78-80 (noting decisions in Arkansas, North Carolina, and Massachusetts courts).

⁴¹ *Id.* at 81.

⁴² *Id.* at 84.

⁴³ *Id.*

⁴⁴ See e.g., CENTER ON THE DEVELOPING CHILD *supra* note 22 (explaining on how early childhood scientists organized resources and messaging to specifically target policymakers so that public policy and systems serving young children would be aligned with the latest scientific research into child development).

⁴⁵ *Plyer v. Doe*, 457 U.S. 202 (1982).

⁴⁶ Minn. Dep’t Hum. Services, *Child Care Assistance Program (CCAP) Policy Manual: 4.15 Child’s Citizenship and Immigration Status* (Mar. 2021),

This guidance is mandated by the federal sources of funding, “[b]ecause CCDFBG and TANF were identified as “federal public benefits,” . . . eligibility [is] limited to qualified immigrants (including lawful permanent residents and refugees).”⁴⁷

Current federal restrictions significantly limit educational opportunities for undocumented children as there are much fewer settings subject to public education standards that provide care for children under age five, with a particular lack of options for infants and toddlers. While *Plyer* has not previously been determined to apply to public child care subsidies, a growing recognition of the educational role that child care plays for young children, partnered with expanded public investment in a universal early care and education system, could shift that interpretation. With or without judicial intervention, legislatures should consider whether it is constitutionally just to deny child care subsidies to children on the basis of their immigration or citizenship status and consider amending existing restrictions.

Part Two: Challenges, Progress, and Opportunities in Minnesota

Issues in Minnesota’s Child Care Ecosystem

While Minnesota has seen investment in early care and education over the last two decades, in some cases this investment has been coupled with disinvestment or underfunding of other, established early care and education programs. This has created a complex system of resources that leaves gaps both geographically and for families with middle-class incomes. The primary issues currently impacting Minnesota’s Child Care Ecosystem are (1) system complexity, (2) concerns about program integrity and fraud, (3) child care deserts and lack of access to programs, (4) workforce challenges and persistent low pay, and (5) pandemic impacts exacerbating many of the existing challenges.

System Complexity

A 2018 Minnesota Office of Legislative Auditor reported noted that “Minnesota law does not explicitly lay out a vision for a system of early childhood programs[.] . . . Instead of a network of coordinate programs that seamlessly provide services, Minnesota has, over the years, accumulated a set of piecemeal programs, each with its own complexities.”⁴⁸ Most of these programs aim to “prepar[e] children for school or support[] children’s development,”⁴⁹ and tend to “target certain populations such as families with low incomes or facing other risk factors.”⁵⁰

https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=CCAP_0415.

⁴⁷ Hannah Matthews, *Immigrant Eligibility for Federal Child Care and Early Education Programs*, CLASP.org 1 (Apr. 2017), <https://www.clasp.org/sites/default/files/public/resources-and-publications/publication-1/Immigrant-Eligibility-for-ECE-Programs.pdf>. For clarity, CCDFBG is the Child Care Development Fund Block Grant and TANF is Temporary Assistance for Needy Families, also known as welfare or cash assistance.

⁴⁸ OLA *Early Childhood Programs supra* note 5 at 19.

⁴⁹ *Id.*

⁵⁰ *Id.*

However, the programs utilize different service models,⁵¹ have different eligibility requirements,⁵² and serve different age groups.⁵³ Further, such programs are implemented and administered by different agencies which makes coordination, streamlining, and data sharing extremely challenging.⁵⁴

The impact of this complexity is that families struggle to secure sufficient funding necessary to meet their child care needs and may need to complete several lengthy applications with different agencies to have their child care costs covered. Many families who would be eligible for more support do not know about the programs available and may take on cost burdens that could be covered.

Further, providers of early care and education services, whether public or private entities, struggle to ensure that they are complying with multiple program requirements to help the families of the children they serve access all available services. Added administrative burdens of billing multiple program sources disincentivize providers from accepting children and families that rely on assistance programs to pay for services. When legitimate service providers decline to accept children on subsidy programs due to the administrative complexity, it creates an opening for business to capitalize on the lack of options and prey on vulnerable families with poor-quality or potentially fraudulent child care arrangements.

Program Integrity

The complexity of the many early care and education programs creates program integrity issues. Because most of the available programs do not cover the full cost of child care needs, many families may utilize funding from multiple sources. However, programs for young children are spread across multiple state departments and none of those departments “use the same system for identifying children who receives services from their programs,”⁵⁵ which means that it is not possible to systematically identify the number of children who receive support from multiple programs, nor can the state track the educational outcomes for children to assess the impact of their early care and learning environments.

⁵¹ For example, some funding is dedicated to public school-based programs while others utilize a mixed delivery model, utilizing schools. Licensed child care centers, or licensed family childcare homes.

⁵² For example, some programs rely on income determinations by other programs, like free or reduced-price school lunch program, others consider the family’s income compared to federal poverty guidelines, while still others consider the family’s income compared to the state median income. *Id.* at 21.

⁵³ For example, Child Care Assistance Program serves children from birth to age 12, while Early Learning Scholarships may serve infants and toddlers, but only in certain families, while voluntary prekindergarten programs only serve 4-year-olds. *Id.* at 21.

⁵⁴ For example, Child Care Assistance Program is administered by county or tribal agencies and supervised by the Minnesota Department of Human Services, while the Minnesota Department of Education selects local grantees to administer Early Learning Scholarships, and individual school districts administer school readiness and voluntary prekindergarten programs.

⁵⁵ *Id.* at 36.

Further, some of the programs have also raised concerns about whether funds are being used appropriately. In response to news reports⁵⁶ alleging widespread program fraud in the Child Care Assistance Program (CCAP), the Minnesota Office of the Legislative Auditor (OLA) conducted assessments of both the fraud allegations⁵⁷ and the program's internal controls.⁵⁸ While the OLA found no "evidence to substantiate a connection between CCAP fraud money and support for a terrorist organization,"⁵⁹ they did raise troubling questions about the extent of fraudulent activity in the program that could not be verified and substantiated due to challenges in prosecuting fraud, defining fraud, and validating legitimate program payments.⁶⁰

In the Minnesota Office of the Legislative Auditor's assessment of the Child Care Assistance Program's internal controls, they recommended that "the Department of Human Services [should be directed] to implement real-time electronic reporting of child care attendance for CCAP and . . . should enhance billing verification policies to reduce the risk of improper payments in CCAP."⁶¹ Such changes would require significant financial allocations to the department to invest in new technologies and make updates or replace the program's existing eligibility system, Minnesota Electronic Child Care (MEC²). The MEC² system was launched in 2008 and utilizes much of the programming and background processing of Minnesota's MAXIS system, which supports many Minnesota financial assistance programs including Minnesota Family Investment Program (MFIP)⁶² and Supplemental Nutrition Assistance Program (SNAP) food support and was launched in 1991.⁶³ This system is built on a COBOL programming system, a programming language that is no longer taught to new programmers and relies on an expensive and dwindling pool of retired programmers to maintain.⁶⁴

Access, Availability, and Child Care Deserts

An issue impacting all families, not just those who rely on public subsidies and programs to access early care and education opportunities, is the lack of accessible child care across communities. "In 2016, the Center for American Progress conducted an eight-state study

⁵⁶ See Jeff Baillon, "Millions of dollars in suitcases fly out of MSP, but why?" KMSF Television (Fox 9), (May 13, 2018), <http://www.fox9.com/news/investigators/millions-of-dollars-in-suitcases-fly-out-of-msp-but-why>; Jeff Baillon, "Whistleblower reported daycare fraud and possible link to terrorism to DHS management," KMSF Television (Fox 9) (May 14, 2018), <http://www.fox9.com/news/whistleblower-reported-daycare-fraud-and-possible-link-to-terrorism-to-dhs-management>.

⁵⁷ See OLA *Fraud Allegations supra* note 7.

⁵⁸ See OLA *Internal Controls supra* note 8.

⁵⁹ OLA *Fraud Allegations supra* note 7 at 24.

⁶⁰ See *Id.*

⁶¹ OLA *Internal Controls supra* note 8 at 19.

⁶² MFIP is Minnesota's Temporary Assistance For Needy Families (TANF) funded cash assistance program.

⁶³ This information can be verified by the Minnesota Department of Human Services but comes from personal knowledge after six years of employment at the department and working extensively with the MEC² system.

⁶⁴ For example, see Makena Kelly, *Unemployment Checks are Being Held Up by a Coding Language Almost Nobody Knows*, TheVerge.com (Apr. 14, 2020, 8:00 AM), <https://www.theverge.com/2020/4/14/21219561/coronavirus-pandemic-unemployment-systems-cobol-legacy-software-infrastructure> (documenting challenges many states faced with their unemployment insurance systems during the pandemic due to outdated COBOL programming.).

looking at zip codes and the number of child care facilities available. Minnesota was part of this study and according to the findings, Minnesota had “the highest rate of child care deserts and the highest proportion of its population living in child care deserts.”⁶⁵ A child care desert exists when there are “at least 30 children under the age of 5 and either no child care centers or so few centers that there are more than three times as many children under age 5 as there are spaces in centers.”⁶⁶

Families searching for child care must focus on many factors besides the quality of care provided and their family needs, including cost, hours of operation, and location. While evidence suggests that “[a]ttending a high-quality early childhood program such as preschool or Head Start is particularly important for children in poverty or from other disadvantaged backgrounds and can help reduce the large income-based disparities in achievement and development,”⁶⁷ such care is more prevalent in high-income areas based on geographic data.⁶⁸ Lack of affordable, accessible child care can prevent full workforce participation⁶⁹ and make it more challenging for families to meet their economic needs.

The Minnesota Legislature convened a task force “to review the loss of child care providers in the state, assess affordability issues for parents and providers, and identify areas that need to be addressed by the Minnesota Legislature.”⁷⁰

The task force recommended three primary actions. First, they advised the legislature to reform the regulatory landscape for child care providers, particularly for family child care providers.⁷¹ Second, they suggested reform and investment into the Child Care Assistance Program and

⁶⁵ Rebecca Fudala, *Addressing child care deserts in Minnesota*, AitkinAge.com (June 24, 2021) https://www.messagemedia.co/aitkin/news/state/addressing-child-care-deserts-in-minnesota/article_c8865cd6-d399-11eb-aa21-9bf85aad7e76.html (noting that “the term “child care desert” is used to refer to communities that do not live near or don’t have access to affordable and quality child care.”).

⁶⁶ Rasheed Malik, et. al., *Child Care Deserts: An Analysis of Child Care Centers by ZIP Code in 8 States*, Ctr. Am. Progress (Oct. 27, 2016), <https://www.americanprogress.org/article/child-care-deserts/>.

⁶⁷ *Id.* (citing William T. Gormley Jr., et. al., *The Effects of Universal Pre-K on Cognitive Development*,” 41(6) *Developmental Psychol.* 41 (6) 872 (2005); William T. Gormley Jr. & Deborah Phillips, “Programs Can Boost School Readiness,” *Science* 320 (5884), 1723 (2008); James J. Heckman “Skill Formation and the Economics of Investing in Disadvantaged Children,” *Science* 312 (5782), 1900 (2006); Ruzek, et. al., “The Quality of Toddler Child Care and Cognitive Skills at 24 Months”; Yoshikawa, et. al., “Investing in Our Future”; Allison Friedman-Krauss, W. Steven Barnett, and Milagros Nores, “How Much Can High-Quality Universal Pre-K Reduce Achievement Gaps?” (Washington: Center for American Progress, 2016), available at <https://americanprogress.org/issues/education/report/2016/04/05/132750/how-much-can-high-quality-universal-pre-k-reduce-achievement-gaps/>.)

⁶⁸ See *Id.*

⁶⁹ See *id.* (noting that the rate of participation in the labor force is “about 1.1 percentage points lower in child care deserts” for mothers with young children, even though “child care deserts have roughly the same rates of poverty as nondeserts.”).

⁷⁰ Legis. Task Force on Access Affordable Child Care, *Report and Recommendations to the Minnesota Legislature*, 1 (Jan. 15, 2017), <https://www.lcc.mn.gov/tfcc/>.

⁷¹ See *id.* at 33.

expanding funding sources to meet the needs of middle-income families.⁷² Finally, they recommended engaging with private partners to generate community-driven solutions.⁷³ To date, although Minnesota’s 2021 legislature funded a project to modernize child care center regulations,⁷⁴ none of these recommendations has been adopted.

Workforce

A correlative to child care deserts is the workforce crisis in early care and education. In rural Minnesota, significant declines in child care availability are often the result of family child care providers leaving the industry due to either retirement or economic demands. “The mass exodus of in-home family child care providers from the business is alarming, but the reasons are understandable: providers can’t make a living at it.”⁷⁵ Family child care is the most common child care setting in rural areas because it is harder to staff a child care center and for the demand to be high enough to necessitate a whole center due to lower population density. Because family child care has more flexibility in their enrollment, it is better able to meet the changing and highly-local capacity demands. However, loss of family child care providers is a major contributor to child care deserts, especially in rural Minnesota.

The situation is slightly more complicated in child care centers, but the result is similar. “Considering the level of education many providers have, they are still woefully underpaid . . . It’s no wonder that many women⁷⁶ holding an early childhood education license will quit child care and move into K-12 teaching positions as soon as the opportunity arises.”⁷⁷ While center slots may have increased in the Minnesota metro areas, child care as an industry still struggles to be affordable to families and provide living wage jobs to employees.

When it comes to economic viability though, “[t]he primary problem for child care providers, whether they offer in-home care or center-based care, is a fundamental gap between what it costs to run a child care program and what parents are willing or able to pay.”⁷⁸ Despite child care being an unaffordable expense for most families, “[m]ore than 85% of child care workers would be considered low-wage workers, making less than \$20,000 annually,”⁷⁹ putting them barely above the “federal poverty line for a family of three.”⁸⁰ Because of the low wages many

⁷² See *id.* at 36-37.

⁷³ See *id.* at 37.

⁷⁴ See Minn. Dep’t Hum. Serv., *Legislative changes for licensed programs: Child Care Centers*, <https://mn.gov/dhs/general-public/licensing/legislative-changes/> (last visited May 11, 2022).

⁷⁵ Marnie Werner, *A quiet crisis: Minnesota’s child care shortage*, Center for Rural Policy and Development (Sept. 1, 2016), <https://www.ruralmn.org/a-quiet-crisis-minnesotas-child-care-shortage/>.

⁷⁶ *Id.* (noting that research has indicated that “virtually all child care providers in Minnesota are women”).

⁷⁷ *Id.* (citing LaRue Allen & Bridget B. Kelly, ed. *Transforming the Child Care Workforce for Children Birth through Age 8: Unifying Foundation*, 2015; and Nancy Jost, “an early childhood specialist at West Central Initiative in Fergus Falls.”).

⁷⁸ *Id.*

⁷⁹ *Id.* (citing Amanda Rohrer, *Low Income Workers in Minnesota*, Minn. Dep’t Emp. & Econ. Dev. (Sept. 2014)).

⁸⁰ *Id.*

people working in the early care and education field “have to rely [on] public income supports . . . [including] Medicaid/[Children’s Health Insurance Program], Food Stamps and TANF.”⁸¹

Despite the importance of employing highly-trained early care and education providers, the low wages of the field make it even more challenging to bring new workers into the field because “people don’t see it as a viable career.”⁸² In some cases, “students interested in the field are being counseled out of their choice by well-meaning advisors who make a case that they will not be able to pay back students loans following graduation or support their own families.”⁸³ The student debt crisis may be driving these concerns especially because working in a private versus a public child care facility would prevent early childhood teachers from accessing programs like Public Student Loan Forgiveness.⁸⁴ This practice then results in post-secondary programs “closing early childhood degree programs . . . [d]ue to low numbers of applicants.”⁸⁵

Essentially, the lack in public investment in child care and early education has created a system in which child care is funded partially by workers subsidizing their labor and accepting poverty wages. However, the system has reached a breaking point in which these workers are no longer accepting poverty wages, especially as better opportunities present themselves in the face of worker shortages across the employment spectrum. Unfortunately, this can create a “ripple effect”⁸⁶ with child care providers leaving the field, resulting in fewer available child care openings, and parents employed elsewhere left without child care. It is this cyclical effect that leads “lack of child care” to being one of the biggest contributors to workforce absenteeism,⁸⁷ an issue that “costs U.S. companies billions of dollars each year in lost productivity, wages, poor quality of goods/services and excess management time.”⁸⁸

COVID-19

When COVID-19 hit Minnesota in March 2020, it exacerbated existing issues with Minnesota’s child care system. Although many child care providers kept providing services under the promise of additional financial support, access to federal funds was hard to come by and left some

⁸¹ *Early Childhood Care and the Early Childhood Workforce in Minnesota*, Transforming Minnesota’s Early Childhood Workforce, <https://ecworkforcemn.org/early-childhood-workforce-in-minnesota/> (last visited Apr. 13, 2022).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Although working in early childhood education programs that are organized under not-for-profit status, Head Start, and public schools may qualify a teacher for public student loan forgiveness, many programs offering services are sole proprietorships, corporations, or LLCs, barring those educators, doing the same work, from loan forgiveness. See *Public Service Loan Forgiveness FAQ*, StudentAid.gov, <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service/questions> (last visited May 11, 2022).

⁸⁵ *Early Childhood Care and the Early Childhood Workforce in Minnesota supra* note 81.

⁸⁶ Marnie Werner *supra* note 75.

⁸⁷ See Investopedia, *The Causes and Costs of Absenteeism In The Workplace*, Forbes .com (July 10, 2013 9:40 AM), <https://www.forbes.com/sites/investopedia/2013/07/10/the-causes-and-costs-of-absenteeism-in-the-workplace/?sh=11a3d8a83eb6>.

⁸⁸ *Id.*

providers worse off financially than if they had closed.⁸⁹ The financial burdens of staying open in the pandemic were felt by providers and families alike, with some families forced to continue paying for child care slots that their children couldn't use due to quarantines and closures.⁹⁰

The combination of pandemic-related financial pressures, lack of government support, parents opting to leave the workforce rather than pay for child care they couldn't use, and staffing shortages have led to a net loss of child care slots in 2021, continuing a trend of overall child care slot decreases in the last few years.⁹¹

The reduction in available child care is preventing economic recovery from the COVID-19 pandemic and highlights Minnesota's need to "address the underlying systemic financing problems in the child care sector for long-term sustainability."⁹²

Reform Efforts and Opportunities in Minnesota in the last Decade

In 2022, Minnesota has a budget surplus exceeding \$9 billion.⁹³ This budget surplus provides the greatest opportunity to invest in early care and education system reforms and improvements in several decades. Over the past decade, Minnesota has conducted several reviews and evaluations of the current early care and education ecosystem and generated a list of recommendations that have largely gone unimplemented due to lack of financial backing and the COVID-19 pandemic. Although Minnesota has received some additional federal funding, these investments have been used primarily to fund new federal mandates and make improvements to the existing system, rather than transformative change.

In addition to the audit and task force recommendations already noted,⁹⁴ there are additional opportunities that have not been fully utilized, such as changes in federal law authorized by the Child Care and Development Block Grant Act of 2014,⁹⁵ and new opportunities on the horizon, such as the Great Start for All Task Force⁹⁶ convened by the 2021 Minnesota Legislature and the

⁸⁹ See Brandon Stahl, et. al., *Kare 11 Investigates: Daycares struggling after denied emergency COVID-19 funding*, Kare 11 News (June 15, 2020, 10:27 PM), <https://www.kare11.com/article/news/investigations/kare-11-investigates-daycares-struggling-after-denied-emergency-covid-19-funding/89-eb70d8e0-5cf5-4dec-bf9e-1814dc550847>.

⁹⁰ See Dee DePass, *Minnesota parents near braking point as COVID-19 exacerbates child care crisis*, Star Trib. (Jan. 15, 2022, 5:00 PM), <https://www.startribune.com/minnesota-parents-near-breaking-point-as-covid-19-exacerbates-child-care-crisis/600136259/>.

⁹¹ See *id.*

⁹² Elizabeth E. Davis, *Even Before the Pandemic, Child Care Finances Were Broken*, Women's Found. Minn. (March 26, 2021), <https://www.wfmn.org/even-before-the-pandemic-child-care-finances-were-broken/>.

⁹³ Rob Hubbard, *State's projected budget surplus swells to \$9.25 billion*, Minn. House of Representatives Session Daily (Feb. 28, 2022, 12:39 PM CST), <https://www.house.leg.state.mn.us/SessionDaily/Story/17164>.

⁹⁴ See OLA *Early Childhood Programs* note 5; OLA *Fraud Allegations* *supra* note 7; OLA *Internal Controls* *supra* note 8; and Legis. Task Force on Access to Affordable Child Care *supra* note 70.

⁹⁵ See *Child Care and Development Fund Reauthorization* *supra* note 6.

⁹⁶ See 2021 Minn. Session Law... *supra* note 2.

federal Build Back Better Proposal⁹⁷ which would authorize and fund the creation of a universal child care system that ensures all families have access to affordable, high-quality child care.

Child Care Development Fund Reauthorization

The Child Care and Development Block Grant Act of 2014 reauthorized the Child Care and Development Fund (CCDF) program for the first time nearly two decades and represented a major shift in the federal approach to funding state child care programs that moved from a program that was strictly tied to supporting parent’s work activities, to one that balanced the need to support working parents and children’s needs for stable, quality early care and education environments. The change in law mandated that states provide a minimum of twelve-months of child care support for eligible families, reduced state options to terminate child care subsidies, and mandated higher health and safety standards for child care programs accepting federal dollars. This federal funding is the primary funding source for the Child Care Assistance Program (CCAP), child care licensing, and Parent Aware.

Minnesota made several changes to state law to comply with federal requirements but changes generally moved to meet, rather than exceed compliance.⁹⁸ The Task Force on Access to Affordable Child Care specifically noted that CCAP “policy reforms would help make CCAP work better for families and providers.”⁹⁹ Further, they ultimately recommended that “[a]ny significant influx of funds should be done in conjunction with reform, including efforts to simplify participation for providers and support consistency of care for children.”¹⁰⁰

Not only could Minnesota improve CCAP by expanding the program within current federal guidelines, but it could also serve to reduce the number of duplicative programs that contribute the Minnesota’s complex child care and early learning ecosystem. Specifically, the flexibility offered by the reauthorized CCDF program provides Minnesota a pathway to unite the Child Care Assistance Program (CCAP), currently funded by the CCDF, and Minnesota’s State Early Learning Scholarship Program. Minnesota State Early Learning Scholarship Program was established in 2013 to “increase access to high-quality early childhood programs for 3- to 5-year-

⁹⁷ See Amanda Guarino, *FAQ on the Child Care and Preschool Provisions in the Build Back Better Act, First Five Years Fund* (Dec. 15, 2021), <https://www.ffyf.org/faq-on-the-child-care-and-preschool-provisions-in-the-build-back-better-act/>.

⁹⁸ As an example, prior to CCDF reauthorization, Minnesota’s Child Care Assistance Program required parents to meet an income threshold of less than 47% of the state median income (SMI) for initial eligibility and to maintain income of less than 67% of SMI for continued eligibility. A family whose income exceeded 67% of SMI at anytime was terminated with two weeks’ notice. Minn. Stat. § 119B.09 (2014). Changes effective 9/30/2017 permitted families whose income at or exceeding 67% SMI but less than 85% SMI to continue eligibility until their next redetermination. Minn. Stat. § 119B.025 (2017). This made care more stable for families but fully expand program eligibility to federal limits which would allow eligibility for any family whose income was less than 85% of SMI at initial eligibility and on-going. Child Care and Development Block Grant Act of 2014 § 658E (c)(2)(N)(i)(I).

⁹⁹ Legis. Task Force on Access to Affordable Child Care *supra* note 70 at 36.

¹⁰⁰ *Id.* at 37.

old children from low-income families.”¹⁰¹ This program provided funding for children from low-income families but does not have work requirements for parents in the household and has a different income standard for eligibility.¹⁰² Under the flexibility of new federal requirements for CCDF spending, Minnesota could further loosen employment requirements and expand eligibility to include all children who would currently be eligible for early learning scholarships.

In addition to eliminating work requirements for families, the Early Learning Scholarship program requires child care programs that receive scholarship payments for enrolled children to participate in Minnesota’s quality rating and improvement system, Parent Aware.¹⁰³ When the program was initially enacted it was required that programs earn a “three- or four-star rating in the quality rating and improvement system” by “July 1, 2016,”¹⁰⁴ to accept early learning scholarship payments. However, the effective date of this requirement has been repeatedly extended and under current law will not be required until “July 1, 2024.”¹⁰⁵ It is not clear whether a mandate to achieve a high-rating in the state’s quality rating system will ever be implemented, thus reducing the apparent differences between the Early Learning Scholarship Program and CCAP that justified adopting a separate scholarship program instead of investing directly in CCAP. Although federal requirements do not mandate that programs receiving CCDF payments participate in the state’s quality rating system, they encourage states to establish such systems and do not prevent states from mandating enrollment or tying payment rates to a program’s quality, something that Minnesota’s CCAP already does.¹⁰⁶ With minor changes to the Parent Aware program, it would be possible to establish a baseline health and safety quality standard that aligned with existing federal health and safety requirements and automatically enroll all licensed and certified child care programs in the quality rating system and encourage provider participation in the full rating process through higher child care reimbursements, which

¹⁰¹ W. Chen, et. al., *Minnesota State Early Learning Scholarships: Evaluation Report on Child Outcomes*, SRI International, 1 (2015), <http://www.house.leg.state.mn.us/comm/docs/642c9f8a-e379-4494-abb6-0dd7d3b77891.pdf>.

¹⁰² 185% of Federal Poverty Guidelines, Minn. Stat. § 124D.165, versus using State Median Income. In 2022, for a family of 3, income must not exceed \$74,222 for the family to be eligible for an Early Learning Scholarship. Minn. Dep’t Educ., *Fiscal Year 2022 Early Learning Scholarships*, (Sept. 1, 2021), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=022013&RevisionSelectionMethod=latestReleased&Rendition=primary. For CCAP, a family must not exceed \$44,589 at their initial eligibility determination (47% of SMI), cannot exceed \$63,564 at their redetermination (67% of SMI), and cannot exceed \$80,640 (85% of SMI) at any point in their eligibility year. Minnesota Department of Human Services, *Minnesota Child Care Assistance Program Copayment Schedules*, DHS-6413J-ENG (Effective Oct. 4, 2021), <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6413j-ENG>.

¹⁰³ Minn. Stat. § 124D.165, Subd. 4(a)(2). For more on the Parent Aware Quality Rating and Improvement System, see Parent Aware: What is the Rating Process, <https://www.parentaware.org/programs/> (last visited Apr. 7, 2022).

¹⁰⁴ Minn. Stat. § 124D.165, Subd. 4(a)(2) (2013).

¹⁰⁵ Minn. Stat. § 124D.165, Subd. 4(a)(2) (2021).

¹⁰⁶ See Minn. Stat. § 119B.13, Subd. 3b. (providing for a “15 percent differential” for child care providers holding “a three-star Parent Aware rating” and a “20 percent rate differential” for child care providers holding “a four-star Parent Aware rating”).

is essentially how the Early Learning Scholarship program has operated since it was established.¹⁰⁷

Alignment between the Minnesota Early Learning Scholarship Program and the Child Care Assistance Program has not been implemented despite it having the potential to dramatically reduce administrative duplication and simplify the application process for families and the payment process for child care providers. Currently the programs are supervised by different state agencies,¹⁰⁸ administered by different local agencies,¹⁰⁹ requiring separate applications for parents, and separate billing processes for child care providers. Aligning these programs would require legislative action.

Early Childhood Systems Reform Project

The “Early Childhood Systems Reform project was launched in early 2016 to create an effective state system of early childhood programs and services that ensures pregnant and parenting families of prenatal to three-year-olds are receiving the supports they need in a manner that encourages their optimal growth and development, and eliminates racial disparities in program access and outcomes.”¹¹⁰ This project was an administrative initiative and worked across agencies and established advisory projects in addition to intentionally centering “families and communities . . . through the creation of a Steering Committee.”¹¹¹

While well-intentioned, the project did not yield an executable plan for reform, but rather, a framework for decision-making, community engagement, and policy analysis. Top-level recommendations from this project included urging government agencies to “[t]ransform [g]overnment [c]ulture and [o]perations . . . [by p]rioritiz[ing] collaborative cross-agency government efforts that place families at the center of these efforts”¹¹² and “[b]uild[ing] [t]rust of [g]overnment within [c]ommunities”¹¹³ through collaboration between state and local agencies.

Preschool Development Grant

Utilizing the vision setting and recommendations emerging from the Early Childhood Systems Reform project, in 2019, Minnesota applied for and was awarded a federal Preschool Development Grant. These federal grants were

¹⁰⁷ See Minn. Dep’t Educ., *Early Learning Scholarship Program*, <https://education.mn.gov/mde/fam/elsprog/elschol/> (last visited Apr. 7, 2022) (noting that “[s]cholarship amounts are based on the Parent Aware rating level of the program” the parent chooses).

¹⁰⁸ CCAP is supervised by the Minnesota Department of Human Services. Minnesota Early Learning Scholarships are supervised by the Minnesota Department of Education.

¹⁰⁹ CCAP is administered by county and tribal human services agencies. Minnesota Early Learning Scholarships are administered by local administrators selected by MDE and currently include non-profit agencies, Community Action Agencies, Foundations, and Tribal administrators.

¹¹⁰ Early Childhood Systems Reform Project Team, *Early Childhood Systems Reform: Year One Final Report*, Minn. Dep’t Hum. Serv., DHS-7798A-ENG, 3 (Oct. 2018), <https://mn.gov/mmb-stat/2-gen/early-childhood-systems-reform-year-one-final-report.pdf>.

¹¹¹ *Id.* at 10.

¹¹² *Id.* at 28.

¹¹³ *Id.*

designed to fund states to conduct a comprehensive statewide birth through five needs assessment followed by in-depth strategic planning, while enhancing parent choice and expanding the current mixed delivery system consisting of a wide range of provider types and settings, including child care centers and home-based child care providers, Head Start and Early Head Start, state pre-kindergarten, and home visiting service providers across the public, private and faith-based sectors.¹¹⁴

The planning phase of this grant yielded several major findings that repeated many of the themes of previous efforts, including the need for a “holistic”¹¹⁵ system that “addresses the interconnection of issues that are woven throughout families’ lives.”¹¹⁶

Following the planning grant, Minnesota was awarded an additional grant to implement solutions that address some of the identified needs. The grant is funding several projects focused on increasing access to existing programs, particularly for “families with young children who are experiencing racial, geographic and economic inequities.”¹¹⁷ Projects include funding awarded to “community-based partnerships to create . . . Community Resource Hubs,”¹¹⁸ to provide families with “navigation to several supports and services,”¹¹⁹ HelpMe Connect,¹²⁰ which is “an online navigator for pregnant and parenting families with young children [to] find services in their communities,”¹²¹ and coordinating family application information across programs and departments by developing “a human-centered common application, MNBenefits.”¹²²

These resources, while valuable, do not address the underlying complexity of programs, but they are a start towards a more coordinated system of care. Unfortunately, the federal funding is not on-going and while, “Management Analysis and Development, a Minnesota government in-house consulting group, is developing a plan for work beyond the federal grant period,”¹²³ there is no committed funding to continue all the current Preschool Development Projects beyond the 2022 federal fiscal year.

¹¹⁴ Off. Early Childhood Dev., *Preschool Development Birth through Five (PDG B-5)*, U.S. Dep’t Health & Hum. Serv., (Nov. 3, 2020), <https://www.acf.hhs.gov/ece/early-learning/preschool-development-grants> (last visited Apr. 8, 2022).

¹¹⁵ Minnesota Department of Education, *Preschool Development Grant Needs Assessment*, 31 (2018), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE032711&RevisionSelectionMethod=latestReleased&Rendition=primary.

¹¹⁶ *Id.*

¹¹⁷ Minn. Dep’t Educ., *Frequently Asked Questions – Preschool Development Grant*, 1, (Mar. 7, 2019), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE086183&RevisionSelectionMethod=latestReleased&Rendition=primary.

¹¹⁸ Minn. Dep’t Educ., *Local Community Resources Hubs*, <https://education.mn.gov/MDE/dse/early/preschr/local/> (last visited Apr. 10, 2022).

¹¹⁹ *Id.*

¹²⁰ For more on HelpMe Connect, see <https://helpmeconnect.web.health.state.mn.us/HelpMeConnect/>.

¹²¹ Minn. Dep’t Educ., *Preschool Development Grant: Mid-Grant Report*, 10 (Sept. 21, 2021), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=PROD046520&RevisionSelectionMethod=latestReleased&Rendition=primary.

¹²² *Id.* at 14. For more on MNBenefits, see <https://mnbenefits.mn.gov/>.

¹²³ *Id.* at 28.

Great Start for All Minnesota Children Task Force

In 2021, Minnesota established a task force¹²⁴ to develop “a state plan to accomplish the goal that ‘all families to have access to affordable, high-quality early care and education that enriches, nurtures, and supports children and their families.’”¹²⁵ The task force is charged with developing a bold vision and a pathway to implementation for a robust child care ecosystem that addresses the issues of “family costs,”¹²⁶ “child’s access to high-quality early care and education,”¹²⁷ and workforce supports to ensure that “Minnesota’s early childhood educators are qualified, diverse, supported, and equitably compensated regardless of setting.”¹²⁸

While the final outcome of this taskforce is yet to be determined, it is unclear whether they will be able to provide a sufficiently actionable plan that could move forward. Previous efforts “weren’t able to achieve implementation of their recommendations because of a lack of consensus”¹²⁹ according to “three of the legislators who serve on the Task Force,”¹³⁰ who urged the group to ensure the “plan and implementation timeline [are] as specific as possible.”¹³¹

For the purposes of Part Three of this paper, actionable steps will be identified that address the Great Start for All’s primary objectives: affordability, accessibility, and effectiveness, with the intent that such a plan could be utilized by the task force to ensure their final report balances the goal of a visionary transformation in Minnesota’s early care and education landscape with actionable steps towards such a vision.

Build Back Better

Building on the bipartisan support for the Child Development Block Grant Act of 2014, President Biden proposed a transformational expansion in federal funding for child care costs.

The proposal seeks to resolve chronic foundational flaws in America’s child care market caused by decades of underinvestment, which create an entirely unsustainable business model for providers that often translates into near-poverty wages for early educators. Additionally, the proposal would build on existing state and federal preschool programs by providing funding to cover the federal share of the cost of a voluntary, free universal pre-K (UPK) program for all children, regardless of income or other eligibility requirements, in a variety of settings.¹³²

¹²⁴ See Minn. Mgmt & Budget, *Great Start for All Minnesota Children Task Force*, <https://mn.gov/mmb/childrens-cabinet/great-start-childrens-task-force/> (last visited, Apr. 8, 2022). The Great Start for All Minnesota Children Task Force will be referred to as “the task force” or “Great Start for All.”

¹²⁵ *Id.* (citing Minnesota 2021 Session Law, First Special Session, Chapter 7, Article 14, Section 18, Subd. 2).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Great Start for All Minn. Children Task Force, *Meeting Minutes*, 2 (Feb. 22, 2022), https://mn.gov/mmb/assets/2.22.22%20Great%20Start%20Task%20Force%20Meeting%20Minutes_tcm1059-519815.pdf.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² Amanda Guarino *supra* note 97 at 1.

The proposal would “create[] a child care and early learning entitlement program for children under six who have not yet started kindergarten,”¹³³ without eliminating existing federal child care funding through the Child Care Development Block Grant which would likely “shift focus from early learning [to school-aged children] once the new entitlement is in place.”¹³⁴

While the proposal has not moved forward, it is a well-developed policy that is likely to be considered by those who want to expand federal funding for early care and education and could at some point be enacted in all or part. For that reason, Part Three of this paper will note ways in which Minnesota could move forward with early care and education improvements that would also prepare the state for potential increased federal investments aligned with the Build Back Better proposal.

Part Three: Priorities and a Pathway Forward

Before the state can move forward with a plan for early care and education, it must identify the outcomes it hopes to achieve. In some ways, Minnesota has done this through its charge to the Great Start for All task force. Breaking down the task force objectives into benchmarks that will demonstrate success will anchor the recommendations that follow to the outcomes the proposed policy changes are meant to achieve.

Benchmarks for Success

The Great Start for All task force is charged with making recommendations to implement an (1) affordable, (2) accessible, and (3) effective early care and education system. Defining these benchmarks is an important part of the task force’s process and is not yet complete. To guide the pathways and policy options proposed in this paper, the task force’s draft definitions will be described and adapted to create actionable benchmarks.

Affordable

While the Great Start for All Task force has identified the need to develop “an affordability standard for families, an income percentage cap”¹³⁵ they have not yet proposed a draft definition publicly as their “Family and Provider Affordability Working Group” is still discussing ideas.¹³⁶

“Affordable” child care is challenging to define. “The most commonly cited definition is the 7% affordability benchmark from the Department of Health and Human Services (HHS), in which child care is considered affordable if it does not exceed 7% of a household’s income.”¹³⁷

¹³³ *Id.*

¹³⁴ *Id.* at 4.

¹³⁵ Great Start for All Minn. Children Task Force, *Meeting Minutes*, 3 (Dec. 21, 2021), https://mn.gov/mmb/assets/Great%20Start%20for%20All%20Minnesota%20Children%20Task%20Force%20Meeting%20Minutes%2012.21.21_tcm1059-513783.pdf.

¹³⁶ See Great Start for All Minn. Children Task Force, *Meeting Minutes*, 3 (Mar. 29, 2022), https://mn.gov/mmb/assets/3.29.22%20Great%20Start%20Task%20Force%20Meeting%20Minutes_tcm1059-523598.pdf [hereinafter March Meeting Minutes].

¹³⁷ Linda Smith, et. al., *Demystifying Child Care Affordability*, Bipartisan Policy Center (Aug. 31, 2020), <https://bipartisanpolicy.org/blog/demystifying-child-care-affordability/>.

However this benchmark “was never meant to be an affordability metric for all families,”¹³⁸ and fails to consider the broader needs of “low- and middle-income families,”¹³⁹ including impacts of “income brackets and other considerations, such as household size and regional cost of living.”¹⁴⁰ Very few families paying out of pocket currently meet the 7% benchmark based on median income and costs with two-parent families making the median household income needing to spend almost 20% of their annual income to secure care at an accredited child care center while single-parent may spend nearly that much for family childcare and over 60% of their annual income to afford accredited, center-based care.¹⁴¹

The Build Back Better proposal provides a “sliding scale structure for co-payments”¹⁴² which “vary based on [the family’s] income.”¹⁴³ Families with incomes under “75% of SMI”¹⁴⁴ would not pay anything out-of-pocket for child care while families between “150-250% of SMI [would be capped at paying no more than] 7% of [their] income.”¹⁴⁵ Families exceeding 250% of SMI, would not be eligible for benefits.

If implemented, a family of four in Minnesota would be likely to see dramatic reductions in their child care costs. An example of what families could pay include¹⁴⁶:

- A family making less than 75% of the SMI (\$84,707 annually) would not pay anything out of pocket for child care.
- Families making 100% of the SMI (\$112,942) could pay between \$1,000 and \$2,500 annually for child care costs (more than 0% but less than 2% of income).
- Families at 125% of SMI (\$141,178) could pay between \$4,000 and \$6,000 annually for child care costs (more than 2% but less than 4% of income).
- Families at 150% of SMI (\$169,413) could pay between \$8,000 and \$10,500 annually for child care costs (more than 4% but less than 7% of income).
- Families at 200% of SMI (\$225,884) would pay no more than \$15,812 annually for child care.
- Families exceeding 250% of SMI (\$282,355) would not receive any subsidies for their child care costs.

In the absence of an actionable definition of affordability from the Great Start for All draft definition, the Build Back Better proposal’s sliding fee scale will be used as the benchmark for family affordability.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ See Marnie Werner *supra* note 75.

¹⁴² Alejandra Londono Gomez & Alycia Hardy, *Capping the Co-pay: A State-by-State Analysis*, CLASP Fact Sheet, 1 (Nov. 2021), https://www.clasp.org/sites/default/files/publications/2021/08/CLASP_CappingCopyChildCare_final.pdf.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ See *Id.* at 4-9 for full data table.

However, affordability is not limited to family affordability, taxpayer affordability must also be considered in a publicly-funded program. Therefore, additional affordability benchmarks must include measures to improve program integrity to ensure that funding is allocated efficiently and with adequate oversight. This will be especially important when the system has expanded to provide subsidies to the full extent as envisioned under Build Back Better. If all Minnesota families making less than 250% of SMI are provided subsidies for child care costs, then very few Minnesota families will pay fully out of pocket,¹⁴⁷ which means that the market will not control child care costs based on what parents can afford as it does now. In some ways, this is a positive change as it will likely lead to better wages for the child care workforce and higher-quality care. However, it presents program integrity concerns if there are not controls in place to ensure that child care programs do not take advantage of more generous reimbursements for personal enrichment.

Therefore, policy recommendations in this paper will aim to meet the following objectives:

- (A) Identify a pathway to **align parent copayments** with the Build Back Better proposal's sliding fee scale.
- (B) **Improve program integrity** measures across publicly-funded early care and education programs.
- (C) Improve **efficiency in program administration** at the governmental level.
- (D) Identify methods of **cost and expense-validation** for high-quality child care.

Accessible

The Great Start for All task force draft "definition of an equitably accessible system,"¹⁴⁸ states that:

An equitably accessible system provides a clear process through which families can access affordable programs at all income levels and ensures availability in programs of family choice that meet individual child and family needs and expectations, given each family's unique context and circumstances.¹⁴⁹

This broad definition's most notable challenge to actionability is its acknowledgement that a "family's unique context and circumstances" significantly influence the type of child care arrangements the family will choose. Similarly situated families on any number of static measures, such as ethnicity, geography, or socioeconomic status, may still prefer different care arrangements based on personal reasons and priorities.

In general, families chose their child care arrangements by balancing their needs for convenience, affordability, and their perceived quality of care and trust in the child care

¹⁴⁷ Utilizing the *Income percentile by State Calculator*, a household making \$282,355 annually is in the 94th percentile of households by income in Minnesota, DQYDJ.com, <https://dqydj.com/income-percentile-by-state-calculator/> (visited Apr. 21., 2022).

¹⁴⁸ *Id.*

¹⁴⁹ See March Meeting Minutes *supra* note 136.

provider.¹⁵⁰ However, around one-third of parents feel they must accept “whatever [child care] arrangement” they could get.”¹⁵¹ This feeling is even more prevalent in households where children have special needs, in non-white households, and homes that speak a primary language other than English.¹⁵² Feeling as if you must take whatever care you can find is not indicative of a system where there are sufficient available programs to meet the demands of family choice.

Obviously, no system could be calibrated to meet the individual needs of every family. To create benchmarks for an accessible system, first factors that families care most about in determining care arrangements for their children must be identified. Then, existing barriers must be ascertained. Finally, policies must be structured to increase the availability of programs aligned with family’s highest priorities and reduce barriers that prevent families from accessing those care environments.

Minnesota families surveyed about their most “important considerations in choosing child care, [selected] ‘a caregiver who speaks your family’s native language,’ and ‘a caregiver rated high quality’, [as] the top ‘very important’”¹⁵³ considerations.

Although parents indicate that quality is an important factor in their child care arrangement decisions, most parents are unable to identify quality as defined by early care and education research-informed factors.¹⁵⁴ This is a problem with our current system which “relies heavily on parents to make well-informed choices on the quality of the care they select.”¹⁵⁵ While quality of care arrangements will be a higher focus for the benchmarks focused on effectiveness, an equitable system will enhance parents’ knowledge of child care quality indicators and provide accurate, validated quality assessments of child care providers to families.

The task force has identified several relevant access factors barriers including, but not limited to, geographical needs,¹⁵⁶ ethnic and cultural needs,¹⁵⁷ transportation needs,¹⁵⁸ language needs,¹⁵⁹ and legal barriers to child care.¹⁶⁰ Other challenges to access include the need for child care availability for parents who “work multiple jobs and non-traditional shifts.”¹⁶¹ Additionally,

¹⁵⁰ See Minn. Dep’t Hum. Serv., *Child Care Use in Minnesota: Report of the 2009 Statewide Household Child Care Survey*, DHS-6278, 61 (Nov. 2010).

¹⁵¹ *Id.* at 65.

¹⁵² *Id.* at 66.

¹⁵³ *Id.* at 8.

¹⁵⁴ See *Id.* at 70.

¹⁵⁵ *Id.*

¹⁵⁶ Gomez & Hardy *supra* note 142 at 4 (noting that “local communities” have a role “in both determining access priorities for their communities and how to meet access needs.”).

¹⁵⁷ *Id.* at 5 (noting that “some ethnic communities” have specific care preference that are not accommodated within the existing structure and that there is a need for “culturally responsive programming and environments, but the child care system at large does not have a clear and consistent approach to prioritizing and providing this.”).

¹⁵⁸ *Id.* at 6.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* (noting the challenges for families where some or all members are “undocumented” or families in which “[c]aregivers . . . are not legal guardians.”).

¹⁶¹ See Marnie Werner *supra* note 75.

“families of children with special needs . . . often require specialized services and extra attention.”¹⁶²

Having a child care provider that speaks the family’s home language was one of the top priorities for Minnesota families, however this priority was disproportionately higher for white families¹⁶³ indicating that families speaking a language other than English may perceive language difference more as a barrier to accessing care than a top priority in their child care provider.

Cultural responsiveness is an issue deeply embedded in most American industries and systems and child care is not an exception, with research showing that implicit biases against Black children, particularly Black boys, showing up as early as preschool and contributing to disproportionate discipline and expulsion of children of color from early care and education settings.¹⁶⁴

Transportation, overall, presents issues for around 10% of families, however one in four families “whose primary [child care] arrangement adds more than 20 minutes to their commute”¹⁶⁵ indicate that “transportation keeps them from using the type of care they prefer.”¹⁶⁶ This suggests that, while transportation access may be an issue for some families, the greater issue may be related to child care deserts and the inability of families to find care that is geographically convenient.

Considering these identified parent priorities and access barriers, benchmarks for an equitable system are policies that increase the availability of child care programs holistically, but with a focus on targeted needs of geographic scarcity and underserved family needs. Further, an accessible system must provide transparent quality information to parents and enhance family capacity to assess the quality of child care arrangements.

Therefore, policy recommendations in this paper will aim to meet the following objectives:

- (E) **Increase child care supply** to ensure there are sufficient child care slots within a thirty-minute commute to serve 65% of the children in any community with at least 30 children under age 5.
- (F) Provide a plan to **compensate early care and education workers** at a wage commensurate with an educator of similar status within the public school system.
- (G) **Increase reimbursement rates** to child care providers to cover the costs associated with providing quality child care and ensuring living wages for employees.
- (H) Provide **publicly available quality information** on all child care providers receiving public subsidy.

¹⁶² *Id.*

¹⁶³ See *Child Care Use in Minnesota supra* note 150 at 63.

¹⁶⁴ See Cory Turner, *Bias Isn’t Just a Police Problem, It’s a Preschool Problem*, NPR: Morning Edition (Sept. 28, 2016), <https://www.npr.org/sections/ed/2016/09/28/495488716/bias-isnt-just-a-police-problem-its-a-preschool-problem> (discussing the work of Walter Gilliam at the Yale School of Medicine into implicit bias in early care and education environments).

¹⁶⁵ See Marnie Werner *supra* note 75 at 69.

¹⁶⁶ *Id.*

Additionally, this paper will note recommendations that may address the following targeted issues:

- (a) Provide additional reimbursement as necessary to **address the increased costs** of providing care to children with special needs and families with variable and non-traditional work hours.
- (b) Ensure that **children in undocumented families** have access to the same care arrangements as children in documented families.
- (c) Ensure families who speak a language other than English can receive care from a provider who speaks their **home language** and/or receive support for accessing care in their home language.

Effective

The Great Start for All task force continues to revise a definition of effectiveness with the current definition highlighting several indicators of an effective early care and education system, including:

Ensuring offerings address and advance the social, emotional, psychological, cultural, physical, and intellectual needs of each child to prepare them to transition to kindergarten.

Providing safe, stable, secure, consistent, nurturing, and enriching environments for each child

Building trusting relationships built on mutual respect between each family and their caregivers

Promote culturally responsive environments with diverse staff that reflect the families they serve and the whole state.

Connecting families to resources and supports they have identified will increase their family well-being¹⁶⁷

Not yet included but referenced in the meeting discussion were the indicators of “‘trauma-informed’ and ‘linguistically relevant’,”¹⁶⁸ which are likely to be added in the next revised definition.

All the identified factors for effectiveness are related to the quality of the services provided. For measuring child care service quality, Minnesota has implemented a quality rating and improvement system called Parent Aware.¹⁶⁹ The current system is optional for providers, though providers who participate may be eligible for additional government financial

¹⁶⁷ March Meeting Minutes *supra* note 136 at 3.

¹⁶⁸ *Id.*

¹⁶⁹ See discussion and source *supra* note 103.

supports.¹⁷⁰ The Build Back Better proposal would mandate participation in a state’s quality rating system for on-going eligibility to accept funding.¹⁷¹

Parent Aware has been evaluated to determine its effectiveness. An initial evaluation study sought to “describe the extent to which the Parent Aware rating process is producing ratings that meet interrelated criteria for being fair, accurate, and meaningful.”¹⁷² While the study “affirmed that QRIS rating tiers are associated with observable quality . . . evaluators found this relationship only with child care centers, not family child care providers.”¹⁷³ Further, research on “[t]he relationship between QRIS rating tiers and child outcomes is less consistent.”¹⁷⁴ Nonetheless, quality rating systems such as Parent Aware, are “a relatively new and still-evolving innovation,”¹⁷⁵ and are “in a position to make adjustments to better meet these goals.”¹⁷⁶

Parent Aware reform and utilization are the primary means by which Minnesota can ensure effectiveness across the varied early care and education program types.

Therefore, policy recommendations in this paper will aim to meet the following objectives:

- (I) **Improve Parent Aware’s** quality measures to ensure that all factors identified by the Great Start for All task force are incorporated within the quality rating process.
- (J) **Increase Parent Aware participation** for child care providers.
- (K) Increase **rating measure validity** for all kinds of child care providers.
- (L) Develop a means of **measuring and tracking child outcomes** that helps Parent Aware continue to refine its rating process and information.

Pathway to Progress Action Steps

Minnesota’s early care and education landscape is complex. Transforming the current system into one that provides affordable, accessible, and effective child care arrangements for every Minnesota family will require significant investments and time. Additionally, it is not clear how incremental changes and external factors will impact the system during a process of transformation. Creating a pathway for progress, therefore, necessarily results in a plan that has

¹⁷⁰ Providers must participate in Parent Aware to accept state Early Learning Scholarship dollars. Providers who earn a 3- or 4-star Parent Aware rating are eligible for a higher reimbursement rate from the Child Care Assistance Program.

¹⁷¹ Amanda Guarino *supra* note 97 at 7 (noting timelines or providers to receive funding requires participation “in the state’s tiered rating system for measuring quality within four years of their state receiving funding.”).

¹⁷² Kathryn Tout, et. al., *Parent Aware: Minnesota’s Quality rating and Improvement System* [Executive Summary], Child Trends 1 (Feb. 2016), https://www.childtrends.org/wp-content/uploads/2016/03/Parent-Aware-Validation-Executive-Summary_Final.pdf.

¹⁷³ Rob Grunewald, Ben Horowitz, & Liza Bukingolts, *Child care rating systems promote quality and parental awareness*, Fed. Reserve Bank of Minneapolis (Jan. 31, 2018), <https://www.minneapolisfed.org/article/2018/child-care-rating-systems-promote-quality-and-parental-awareness>.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

clearer initial policy recommendations and contingent future recommendations that may require further refinement and reprioritization based on updated information about the state of the early care and education ecosystem.

As with any design, there is an interdependent tension between cost, quality, and speed of implementation. If one designs a fast and inexpensive fix, it is unlikely to be of high-quality. To get both substantial quality and speed, you will likely pay a premium. The recommendations below focus on ensuring the highest quality solutions towards the goal of an affordable, accessible, and effective system. The legislature's willingness to invest in these changes will dictate the speed of transformation.

Tier one recommendations focus on aligning systems and reforming infrastructure to implement early care and education programs. Tier two recommendations outline next steps, contingent on tier one recommendations, towards expanding the system to provide a more comprehensive entitlement to quality, affordable early care and education to children.

Tier One: Systemic Alignment and Infrastructure Reform

Minnesota's early care and education system is overly complex and does not provide adequate program integrity measures to ensure that programs are using funds to provide quality child care, nor does it provide enough resources for families to access care. The system as it is currently established disincentivizes caring for children who obtain subsidies, which opens the door for bad actors to take advantage of existing program vulnerabilities leading to waste. The first policy changes and investments must be made to reform the system itself before subsidies can be expanded to more families.

Recommendation 1: Integrated Electronic Attendance Records and Payment System

Questions about the integrity of the Child Care Assistance Program continue to be the primary barrier to future investments in the program. Implementing robust program integrity controls is a necessary first step towards ensuring program funds are used appropriately and developing support for further investment of taxpayer dollars.¹⁷⁷ A base level issue faced in program integrity is ensuring that the children who are enrolled in a child care program reimbursed with taxpayer dollars are actually attending. Minnesota is not able to do this in a meaningful way utilizing existing systems. Minnesota's current attendance regulations, requiring "paper sign-in/sign-out sheets,"¹⁷⁸ are considered "'almost comical' and 'useless'" by prosecutors of child care fraud.

¹⁷⁷ See Barb Haley, *Column: Legislature must stop, prevent child care fraud*, RepublicanEagle.com (Apr. 2, 2019), https://www.republicaneagle.com/opinion/columns/column-legislature-must-stop-prevent-child-care-fraud/article_6de42c0a-fd49-5684-b9b1-89dcecb397b6.html (demonstrating the challenges to bipartisan support of further investment in child care subsidy until program integrity issues are addressed).

¹⁷⁸ Dave Orrick, *'Pervasive' child care fraud alleged – but evidence and convictions are hard to come by*, Pioneer Press (Jan. 22, 2020 1:29 PM), <https://www.twincities.com/2019/03/13/pervasive-child-care-fraud-alleged-by-state-investigators-but-evidence-and-convictions-are-hard-to-come-by/>.

One of the most prevalent challenges states face in ensuring that child care subsidy funds are appropriately used are technology limitations and systems that are not integrated or coordinated.¹⁷⁹ Electronic attendance record keeping systems work to reduce fraud and improve program integrity in many ways. Some states have suggested that the implementation of such a system can result in fraudulent providers closing.¹⁸⁰ Systems also provide the opportunity for states to centralize monitoring and enforcement utilizing real-time data.¹⁸¹ Many states have pushed to implement such measures to reduce fraud.¹⁸² Using an electronic attendance records is a top recommendation for addressing fraud for addressing fraud in Minnesota.¹⁸³

In 2019, the Minnesota legislature provided funding for “a temporary [Department of Human Services] DHS staff person to plan for improvements to provider registration and oversight for CCAP, including options for electronic attendance record keeping.”¹⁸⁴ The department was charged to issue a report on electronic attendance record keeping in 2021,¹⁸⁵ but no report was issued, likely due to the COVID-19 pandemic delaying efforts.

Reviving efforts to implement such a system is critical to enhancing program integrity in child care subsidy systems and, when paired with an integrated payment system, can also create a more streamlined billing process for child care providers, simplifying participation in subsidy programs and increasing the availability of child care options for families who rely on subsidies to cover child care costs.

¹⁷⁹ See Dep’t Health & Hum. Serv. Off. Inspector Gen., *More Effort is Needed to Protect the Integrity of the Child Care and Development Fund Block Grant Program*, OEI-03-16-00150, 10 (July 2016), <https://oig.hhs.gov/oei/reports/oei-03-16-00150.pdf>.

¹⁸⁰ See David Spunt, *Hundreds of daycare centers cancel free program*, WAFB9 (Aug. 11, 2010 10:43 AM), <https://www.wafb.com/story/12934844/hundreds-of-daycare-centers-cancel-free-program/> (quoting Ruth Johnson, secretary of Louisiana’s Department of Children and Family Services, saying “One of the main reasons I think people may have dropped out is there has been some fraud and we have seen cases in other states,” and suggesting that Louisiana’s electronic attendance system (TOTS) “will eventually stop that kind of fraud.”).

¹⁸¹ See Josh Sweigart, *State accuses 14 daycares of fraud, pulls funding*, Dayton Daily News (May 16, 2013), <https://www.daytondailynews.com/news/state--regional-govt--politics/state-accuses-daycares-fraud-pulls-funding/xMqVtCQpiIV2zvxsHptih/> (describing the state’s increased enforcement efforts after implementation of an electronic attendance system).

¹⁸² See Raquel Rutledge, *State cancels contract to combat day-care fraud*, Milwaukee Journal Sentinel (Mar. 20, 2011), <https://archive.jsonline.com/watchdog/watchdogreports/118342669.html/> (noting bipartisan support for the system as a fraud control measure); New York State, *Combating Child Care Fraud in New York State*, <https://ocfs.ny.gov/programs/childcare/presentations/integrity.php>, (last visited May 11, 2022) (listing “a statewide automated Child Care Time and Attendance system” as a part of their “multi-facted, anti-fraud initiative”).

¹⁸³ See Dave Orrick, *Child care fraud: 5 ways Minnesota needs to do better. A state watchdog just put these out*, Pioneer Press (Apr. 10, 2019 7:37 PM), <https://www.twincities.com/2019/04/10/child-care-fraud-5-ways-minnesota-needs-to-do-better-a-state-watchdog-just-put-these-out/> (noting that an electronic attendance record system can prevent against overbilling).

¹⁸⁴ Minn. Dep’t Hum. Serv., *2019 legislative changes to Child Care Assistance Program*, https://www.dhs.state.mn.us/main/groups/county_access/documents/pub/dhs-312763.pdf (last visited May 11, 2022).

¹⁸⁵ *Id.*

Further, such a system, if tied to educational data, can help provide a robust data set for evaluating programs based on child attendance and future educational outcomes. Most states currently limit use of the system to only students who receive child care subsidies. Minnesota should consider whether providers can opt into using the system to track attendance for all families. Such an option could produce richer data sets, as well as reduce stigmas for subsidy parents, and could provide additional benefits, such as security to ensure only authorized guardians are removing children from child care programs.

For implementation of an electronic record keeping system, it may be necessary to begin with essential record keeping functions, but to build in or ensure the capacity to expand to automating provider payments and tracking educational outcomes, contingent on the development of other new technologies that will provide the necessary infrastructure to integrate with an electronic attendance recordkeeping system.

Recommendation: Develop and implement an electronic attendance record keeping system for child care providers participating in early care and education subsidy programs, that automates provider payments and ties attendance data to student outcomes.

Suggested timeline: by Jan. 1, 2026.

Suggested funding: State allocation (consider utilizing 2022 surplus budget funds). Further, expected cost savings in fraud reduction can be applied towards on-going maintenance and improvement costs.

Benchmarks: (B) Improve program integrity, (C) Efficiency in program administration

Recommendation 2: Align Existing Subsidy Programs for Early Care and Education
Minnesota is inefficiently using taxpayer funds by administering multiple, overlapping early care and education subsidy programs creating needless complexity for families and child care providers. Programs should be aligned now with an implementation ramp up plan to provide the state the chance to redesign administration that supports a more integrated and aligned system. The changes that can be made now would reduce existing early care and education subsidy programs from five to two and consolidate oversight within agencies that providers of the care associated with each program are already familiar with.

Early Care and Learning Program

Program one would combine state Early Learning Scholarships (ELS) and the Child Care Assistance Program (CCAP) into a new Early Care and Learning Program (ECLP),¹⁸⁶ supervised by the Minnesota Department of Human Services and administered by agencies that currently

¹⁸⁶ Whether the program is called “Early Care and Learning Program” is not important, but it provides an effective shorthand for the following recommendations. The critical aspect of the suggested name change is the need to rebrand child care subsidies funded by CCDF to shed the image of fraudulent activity associated with CCAP and to incorporate the educational aspects currently highlighted in the ELS program name.

administer Child Care Assistance Program, with the option for those agencies to subcontract to local community providers.

ECLP would retain the structure of CCAP but expand to incorporate elements of ELS, such as requiring participation in Parent Aware and increasing financial eligibility to any family whose income is less than 85% of SMI to cover families currently financially excluded from CCAP but eligible for ELS. ECLP would also increase reimbursement rates for highly-rated Parent Aware providers to at least the 75th percentile of the most recent market rate survey. Finally, ECLP should at the very least adopt waiting list requirements that prioritize risk factors prioritized in ELS and permanently adopted waiting list reprioritizations for CCAP temporarily approved in the 2021 legislative session.¹⁸⁷ With adequate funding, ECLP should be fully funded to serve all children in financially-eligible families. Under a consolidated program structure, this would be the equivalent of fully-funding the existing CCAP Basic Sliding Fee (BSF) program.

The legislature should consider aligning parent copayments to with Build Back Better mandates.¹⁸⁸ At the very least, ECLP parent payment sliding fee scale should be simplified, reducing the number of tiers and percentages.¹⁸⁹

The program would require a five-year ramp up to provide for on-going scholarship eligibility for families currently in the program, transition time for community agencies currently administering scholarships, and making system changes to the CCAP eligibility system to change eligibility requirements. Further, providers currently registered for CCAP would need time to begin participating in Parent Aware or Parent Aware could revise their rating process to align its first level of ratings (One Star) with licensing and certification standards.

In recognition of ECLP being an educational program, language creating the program should remove barriers to participation for children who are not documented as citizens or legal residents and open access to all participating educational environments to these children. However, this change would require federal action to utilize CCDBG or TANF funding for these children. In the absence of federal changes, Minnesota should consider utilizing state resources to cover costs for these children when they are not attending a setting which can be reimbursed with federal funds.

Recommendation: Align and consolidate the Child Care Assistance Program and Early Learning Scholarships into a single Early Learning and Care Program (ECLP), relying on existing CCAP infrastructure, expanded and reformed to incorporate elements of Early Learning Scholarships.

Suggested timeline: Effective September 1 five years after the year of enactment, with an option to increase the income limits and reimbursement rates, prior to full program establishment within the existing CCAP program system.

¹⁸⁷ See Minn. Dep't Hum. Serv., *Child Care Assistance Program 2021 Legislative Changes*, Bulletin #21-68-20 (Jul. 20, 2021), <https://www.lrl.mn.gov/docs/2021/other/210786.pdf>.

¹⁸⁸ This could be done by providing that parents whose income is less than 75% of SMI pay no copay and all other families pay a copay equivalent to 2% of 75% of SMI.

¹⁸⁹ Currently there are over 30 income tiers and payment percentages. See Minn. Stat. § 119B.12.

Suggested funding: Child Care Development Block Grant Act funding, with state Early Learning Scholarship dollars to fund expanded program eligibility and reimbursement rates. Additional state funding would be needed for full program alignment and expansion.

Benchmarks: (A) Align parent copayments, (B) Improve program integrity measures, (C) Efficiency in program administration, (E) Increase child care supply, (G) Increase reimbursement rates, (J) Increase Parent Aware participation, (b) Children in undocumented families.

School Prekindergarten Program

Program two would combine the three existing school-based prekindergarten programs: School Readiness Program,¹⁹⁰ Voluntary Prekindergarten,¹⁹¹ and School Readiness Plus.¹⁹² These programs are substantially similar to one another.¹⁹³ Further, all are funded by state aid with local jurisdictions contributing to costs and some parental fees depending on child eligibility and the program. In many instances, program requirements are identical, for example, all programs require “[s]taff-child ratios of one-to-ten and maximum group size of 20 children . . . Children with IEPs are included in calculations of staff-to-child ratio and group size count.”¹⁹⁴ Identical requirements across programs should be retained in the new School Prekindergarten Program.¹⁹⁵

As to the program features which conflict across the three existing programs, they could be resolved by adopting the following requirements:

- (1) Eligible programs: adopt the language from the Voluntary PreK Program, including mixed-delivery options for districts to contract with other community-based programs, provided those programs have achieved at least a 3 Star Rating through Parent Aware. Consider prioritizing public district schools and collaborations between district schools and charter schools.
- (2) Child eligibility: all children age four by September 1 and children age three by September 1 with the risk factors currently identified by the School Readiness Program or in foster care. Districts may opt to admit additional children under age 4 without risk factors funded without state aid.
- (3) Children with disabilities: Adopt shared language of School Readiness Plus and Voluntary PreK. Allow Commissioner of Department of Education to set the MARSS level for students receiving special education services.

¹⁹⁰ See Minn. Stat. § 124D.15.

¹⁹¹ See Minn. Stat. § 124D.151.

¹⁹² See Minnesota 2017 Session Law, Chapter 5, Article 8, Section 9.

¹⁹³ See Minn. Dep’t Educ., *Preschool Program Comparison Chart* (Jun. 22, 2017), https://education.mn.gov/mdeprod/idcplg?IdcService=GET_FILE&dDocName=MDE071425&RevisionSelectionMethod=latestReleased&Rendition=primary.

¹⁹⁴ *Id.* at 2.

¹⁹⁵ Similar to the name “Early Care and Learning Program,” it is not necessary to use the specific recommended name. The name should differentiate between ECLP by highlighting its focus on prekindergarten children and school-based programming.

- (4) Program fees: Free for all children with risk factors identified by the School Readiness Program or in foster care, but districts may charge a sliding fee-for-service for all other children aligned with the Build Back Better sliding fee scale.
- (5) Number of hours: Minimum of 350 hours for children eligible for state aid.
- (6) Staff requirements: First staff member counted in ratio must be qualified as a teacher under according to School Readiness Program requirements.
- (7) Program content: Provide comprehensive program content and intentionally instruction practice aligned with state early childhood learning guidelines,¹⁹⁶ in a play-based and culturally-responsive environment.¹⁹⁷
- (8) Parent Involvement: Adopt the language from the Voluntary Pre-Kindergarten program which aligns activities for parents “with early childhood family education under section 124D.13.”¹⁹⁸
- (9) Teacher qualification and compensation: to be considered qualified as a teacher, must have a minimum Career Lattice step of 6.¹⁹⁹
- (10) Supervision: there must be a licensed teacher to supervise programs, with at least one licensed teacher per 100 pupils served in the program.
- (11) Program coordination: combine coordination language across all three programs. Coordinate appropriate kindergarten transition with parents, families, kindergarten teachers, community-based pre-kindergarten programs and school district kindergarten programs. Coordinate with relevant community-based services, including health and human service agencies, to ensure children and families have access to comprehensive services. Coordinate with all relevant school district programs and services including early childhood special education, homeless students, English language learners, adult basic education programs and other adult literacy programs.
- (12) Application and Reporting: The Commissioner of the Department of Education must establish a biennial application and reporting process that allocates funding equitably across the state, prioritizing programs that serve high-concentrations of students who

¹⁹⁶ Current program content language includes varied descriptions of early childhood content areas such as “cognitive, social, emotional, and physical skills,” *Id.* at 3, “children’s social and emotional development, cognitive development, physical and motor development.” *Id.* at 3. It is not necessary to call out the developmental domains in statute provided the content is tied directly to Minnesota’s Early Learning Standards because the learning standards address the critical early learning domains. See Minn. Dep’t Educ., *Early Childhood Indicators of Progress: Minnesota’s Early Learning Standards*, <https://education.mn.gov/MDE/dse/early/highquality/ind/> (last visited Apr. 25, 2022).

¹⁹⁷ Aligning with the Minnesota early learning standards also eliminates a need for language about aligning the program with PreK-3rd grade requirements, as included in the Voluntary PreKindergarten program language, as the early learning standards are already aligned with Minnesota K-12 learning standards.

¹⁹⁸ *Preschool Program Comparison Chart supra* note 193.

¹⁹⁹ The Minnesota Career Lattice, Minn. Ctr. Prof. Dev. (Jan. 2018), <https://www.mncpd.org/wp-content/uploads/2018/02/MN-Career-Lattice.pdf>, (last visited May 4, 2022). The Minnesota Career Lattice was developed by Achieve: MN Center for Professional Development and assesses qualifications of early care and education teachers while providing multiple pathways for career development. See mncpd.org for more on Achieve.

receive free and reduced school meals, are English Language Learners, or have experienced housing instability, foster care, or parental incarceration.

(13)Professional Development: the site supervisor and any staff person who works more than 20 hours per week must complete 24 hours of in-service training each calendar year. Staff persons who work 20 hours or less per week must complete 12 hours of in-service training each calendar year. The number of in-service training hours may be prorated for individuals not employed for an entire year.²⁰⁰

This program could be consolidated more quickly than ECLP because school districts need to apply annually for two of the existing programs and submit a biennial plan for the third. It could be effective as of the school year starting the year after enactment.

Recommendation: Consolidate existing Minnesota Department of Education Early Learning Programs (School Readiness, School Readiness Plus, Voluntary PreK), into a single School PreKindergarten Program.

Suggested timeline: Sept. 1, two years after statute enactment.

Suggested funding: Merge existing state aid funding streams, capture funding from consolidated program administration.

Benchmarks: (A) Align parent copayments, (B) Improve program integrity, (C) Efficiency in program administration.

Recommendation 3: Establish a Separate Department of Early Childhood

Currently, oversight of programs for young children is split across three primary state agencies: Minnesota Department of Human Services (DHS), Minnesota Department of Education (MDE), and Minnesota Department of Health (MDH). This current configuration allows those programs to coordinate across other programs that may be needed by other family members. For example, the Child Care Assistance Program (CCAP) is supervised by DHS and its system integrates with the systems for the Minnesota Family Investment Program (MFIP) and Supplemental Nutrition Assistance Program (SNAP) which provide financial supports for families with young children. All three state-funded prekindergarten programs are supervised by MDE which provides for integration and coordination between K-12 schools and ensures that the schools that apply for those grants are familiar with the state agency. MDH oversees programs like the Women, Infants, and Children (WIC) program which “[i]s a nutrition and breastfeeding program [that] [h]elps eligible pregnant women, new mothers, babies and young children eat well, learn about nutrition, and stay healthy.”²⁰¹ As MDH oversees public health related programming, this allows WIC nurses to collaborate with other public health programs and improve information shared to families.

²⁰⁰ This aligns professional development requirements with training hours required for licensed child care center program staff. See Minn. Stat. § 245A.40, Subd. 7(b)-(c).

²⁰¹ Minn. Dep’t Health, *Women, Infants & Children (WIC)*, <https://www.health.state.mn.us/people/wic/> (last visited May 5, 2022).

However, this split across agencies also drives much of the system complexity and barriers to coordination and data sharing for young families. For this reason, many have called on the state to establish a new Department of Early Childhood. In 2021, the legislature “directed the Children’s Cabinet to complete a report and provide recommendations on the governance of programs related to early childhood development and how they could be consolidated into an existing agency or a new state Department of Early Childhood.”²⁰² This report, compiled by Management Analysis and Development, was unable to find “consensus about the best governance approach to early childhood programs . . . in Minnesota.”²⁰³ The report suggested that rather than starting by evaluating governance approach, leaders should first “[d]etermine purpose and priorities first.”²⁰⁴

There is significant concern that a focus on governance “[m]ay divert attention and funding away from efforts to improve alignment and effectiveness.”²⁰⁵ This is a reasonable concern because “[r]eorganizing, or restructuring, is a powerful but high-risk tactic for improving organizations.”²⁰⁶ It is “a challenging process that consumes time and resources with no guarantee of success.”²⁰⁷ However, there are reasons when restructuring is a worthwhile endeavor, including when the “environment shifts”²⁰⁸ and an “[o]rganization[] grow[s].”²⁰⁹ The environment around child care and early education has dramatically changed in the last 20 years thanks to developments in the understanding of child development and the pioneering research of Art Rolnick and Rob Grunewald at the Minneapolis Federal Reserve Bank. Child care is no longer a side endeavor to helping women hold jobs, it is a field of its own. Current early childhood programs are small parts of the agencies that they are embedded in, which puts them at risk of being overlooked and undervalued, or of being viewed through a single purpose lens of either education, human services, or public health.

Establishing a Department of Early Childhood would be challenging and even with substantial planning, there would be unexpected barriers and missteps along the way. Retaining the existing structure or making minor tweaks would be a more stable approach. However, “[t]he price of stability is a structure that grows increasingly misaligned with the environment.”²¹⁰ Although aligning existing programs would produce two stronger early childhood support programs, having them housed in separate agencies is likely lead to dual systems of care and

²⁰² Erin Bailey, *RE: Early Childhood Governance Report*, 1 (Feb. 1, 2022), <https://www.lrl.mn.gov/docs/2022/mandated/220156/cover%20memo.pdf> (referencing Minnesota 2021 Session Law, First Special Session, Chapter 7, Article 14, Section 22).

²⁰³ Mgmt. Analysis & Dev., *State-level governance for early childhood programs in Minnesota*, Governor’s Children’s Cabinet, 5 (Jan. 2022), <https://www.house.leg.state.mn.us/comm/docs/h-tmNsB8-OSU98PjB5nh8w.pdf>.

²⁰⁴ *Id.* at 6.

²⁰⁵ *Id.* at 9.

²⁰⁶ LEE G. BOLMAN & TERRENCE E. DEAL, *REFRAMING ORGANIZATIONS: ARTISTRY, CHOICE, AND LEADERSHIP*, 7TH ED., 75 (2021).

²⁰⁷ *Id.* at 89.

²⁰⁸ *Id.* at 90.

²⁰⁹ *Id.*

²¹⁰ *Id.* at 91.

could pit the programs against one another in requests for additional resources. Consolidation encourages agency leaders overseeing both programs to apply knowledge comprehensive early childhood needs and provides investments in early care and learning with dedicated leadership and representation within the state cabinet structure.

While one could suggest that a better approach would be to take more time to explore options, this work has been done previously in Minnesota and resulted in a recommendation for “a freestanding, cabinet-level office of early learning.”²¹¹ The history of early childhood investments in Minnesota is rife with evaluations, task forces, and studies, but there is a dearth of action to implement recommendations even when they are affirmed time after time. Other states have recognized the environmental shifts in the early childhood field prompting a national trend where “a significant number of states have moved away from the traditional approach of managing early childhood programs across different state agencies and toward consolidation of major programs.”²¹²

The legislature need not be prescriptive in their charge to state leadership beyond asking for a plan to transition to a standalone, cabinet-level agency for early childhood. The legislature could establish specific goals and priorities to guide the plan, such as ensuring cabinet-level leadership in early childhood and coordination of early care and learning programs and oversight under a single agency commissioner. The plan should outline the steps to consolidation, the barriers, and explain how the proposed “new structure [responds] to changes in strategy, technology, and environment.”²¹³ Additionally, the plan should address how the new agency would oversee and evaluate the impacts of the programs it oversees.

The time for this effort is opportune as the state is transitioning from a COVID-induced work-from-home mandate and continues exploring hybrid work environments and their physical footprint. A change in the next two years, can be coordinated with other probable changes in organization and physical infrastructure and will be less disruptive than if the state continues to drag its feet on such changes.

Recommendation: Transition programs serving young children and providing oversight to their care and education providers to a consolidated, cabinet-level agency.

Suggested timeline: Legislative charge should provide funding for a plan to establish a new agency on Sept. 1 of the year two years after enactment. The plan may suggest a phased approach to transition programs. Planning leaders and then the commissioner of the new agency should report to the legislature every year for the five years following enactment on transition progress and suggestions to reduce challenges in the transition, providing flexibility for the new agency to experiment during the transitional period before setting a final structure.

²¹¹ Mgmt. Analysis & Dev. *supra* note 203 at 20 (noting the conclusions of “a task force for Minnesota’s Early Childhood Advisory Council” from “2011.” *Id.*).

²¹² *Id.* at 23 (noting that consolidation has taken different forms in these states.).

²¹³ Boleman & Deal *supra* note 206 at 95.

Suggested funding: State allocation (consider utilizing 2022 surplus budget funds). Further, expected cost savings from reduction in duplicative program administration and sunseting the children’s cabinet, which would no longer be necessary.

Benchmarks: (B) Improve program integrity measures, (C) Efficiency in program administration.

Recommendation 4: Reform Parent Aware

Parent Aware is the primary mechanism through which program quality in a universal early care and education system would be operationalized. Although the current program has been shown to assess quality to a certain extent, reforms are necessary to ensure it meets the necessary benchmarks for success. Reforms must address alignment with child care licensing, cultural competency, rating validity in family child care homes, and programs that only serve school children.

First, it is essential that Parent Aware better align with existing (or reformed) child care licensing standards. The program has operated on an incentive basis to encourage provider participation since its inception but has failed to be fully adopted statewide with only 30% of eligible Minnesota child care providers currently opting into the rating process.²¹⁴ One way to ensure every program receives a rating is to align the first tier of quality with licensing standards. Then, all providers can be automatically granted a One Star rating which will likely incentivize many additional providers to enroll in Parent Aware to improve the quality level of their rating, but still leaves the decision of whether to submit additional documentation for a full rating in the hands of the individual provider. Currently, the public can view a child care provider’s rating on the Parent Aware website, parentaware.org. Programs given an automatic One Star rating can be differentiated from programs who submitted documentation and earned a One Star rating to mitigate concerns from providers who do not want to go through the rating process, but also do not want to be perceived as a low-quality provider.²¹⁵

Second, an element of quality that has not been well assessed in Parent Aware is a program’s cultural competence. “Minnesota has some of the largest achievement gaps by race, ethnicity, and socioeconomic status in the nation.”²¹⁶ Further, these “gaps have persisted for decades despite implementing policies designed to close them.”²¹⁷ Unfortunately, all the measures previously employed, such as equalizing funding, open enrollment, charter schools, and “changes in teacher evaluation systems and compensation,”²¹⁸ fail to address issues of implicit

²¹⁴ See Minn. Dep’t Hum. Serv., *Numbers at a glance* (July 15, 2021),

<https://www.developtoolmn.org/numbers-at-a-glance/index.jsp> (last visited May 8, 2022).

²¹⁵ Currently, programs that are not rated show as not having any stars but include a disclaimer that the program has chosen not to be rated.

²¹⁶ Rob Grunewald & Anusha Nath, *A Statewide Crisis: Minnesota’s Education Achievement Gaps*, Federal Reserve Bank of Minneapolis, 3 (Oct. 11, 2019), <https://www.minneapolisfed.org/~media/assets/pages/education-achievement-gaps/achievement-gaps-mn-report.pdf?la=en>.

²¹⁷ *Id.*

²¹⁸ *Id.*

bias in classrooms starting as early as preschool.²¹⁹ Parent Aware can take two actions to address these issues, they can adopt the recommendations of the Parent Aware Equity Report²²⁰ and they can enhance embedded requirements within the Parent Aware rating to better assess a program’s cultural competence. The Parent Aware Equity Report was produced pursuant to legislative action²²¹ “directing the Minnesota Department of Human Services (department) to conduct outreach with early learning and care providers who are racially, ethnically, culturally, and geographically diverse to identify barriers preventing providers from pursuing Parent Aware ratings.”²²² Recommendations in this report include short- and long-term strategies but are primarily focused on ensuring that diverse providers can access the program and do not comprehensively address how Parent Aware can ensure that cultural competence is included as a quality measure going forward. These changes are necessary to support opportunities for all families to use a child care provider that speaks their home language, if desired.

While Quality Rating Systems, such as Parent Aware, have been a national trend for some time, their focus has been on quality standards such as “professional development, staff qualifications, family involvement, learning environment, curriculum, health and safety, and leadership and management.”²²³ Parent Aware should update quality standards to specifically assess programs for cultural competence. Further, Minnesota should adopt professional development standards for early care and education program staff that include initial and on-

²¹⁹ Further, these disparities are often cited as educational issues, failing to recognize that educational achievement can also be impacted when families experience housing instability (see Heather Sandstrom & Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis*, Urb. Inst. (Sept. 2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>), parental incarceration (see Rebecca J. Shlafer, et. al., *School-based outcomes among youth with incarcerated parents: differences by school setting*, 87(9) J. Sch. Health 687 (Sept. 2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5657233/>), and toxic stress (see Leila Morsey & Richard Rothstein, *Toxic stress and children’s outcomes*, Econ. Pol’y Inst. (May 1, 2019), <https://www.epi.org/publication/toxic-stress-and-childrens-outcomes-african-american-children-growing-up-poor-are-at-greater-risk-of-disrupted-physiological-functioning-and-depressed-academic-achievement/>). Children of color are far more likely to experience housing instability (see Chrishana M. Lloyd, et. al., *Racism and Discrimination Contribute to Housing Instability for Black Families During the Pandemic*, Child Trends (Mar. 18, 2021), <https://www.childtrends.org/publications/racism-and-discrimination-contribute-to-housing-instability-for-black-families-during-the-pandemic>); parental incarceration (Juan Del Toro, et. al., *The Longitudinal Associations Between Parental Incarceration and Family Well-Being: Implications for Ethnic/Racial Disparities in Health*, 61(3) J. Am. Acad. Child & Adolescent Psychiatry 423 (Aug. 9, 2021), [https://www.jaacap.org/article/S0890-8567\(21\)01300-9/fulltext#:~:text=Rates%20of%20paternal%20incarceration%20were,intergenerational%20ethnic%20Racial%20health%20disparities](https://www.jaacap.org/article/S0890-8567(21)01300-9/fulltext#:~:text=Rates%20of%20paternal%20incarceration%20were,intergenerational%20ethnic%20Racial%20health%20disparities)), and toxic stress (see Morsey & Rothstein *supra*) because of societal racial discrimination.

²²⁰ Minn. Dep’t Hum. Serv., *Parent Aware Equity Report* (Mar. 1, 2022), <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-8237-ENG>.

²²¹ Minnesota 2021 Session Law, First Special Session, Chapter 7, Article 14, Misc., Sec. 4, Subd. 4.

²²² *Parent Aware Equity Report supra* note 220 at 4.

²²³ Nat’l Ass’n Educ. Young Child. (NAEYC), *Quality Benchmark for Cultural Competence Project*, 2 (June 2009), http://www.naeyc.org/files/naeyc/file/policy/state/QBCC_Tool.pdf.

going training and coaching on cultural competence to directly address implicit bias in classrooms.

Third, Parent Aware must make efforts to address issues of rating validity in family child care homes. This will first require improvements to family child care regulation overall, including adopting the recommendations of the Minnesota Family Child Care Task Force²²⁴ to simplify and modernize family child care across the state. Concurrent with adopting these changes, the legislature should consider mandating a plan from Parent Aware on suggested rating changes that could improve validity of ratings in Family Child Care homes and fund a pilot program to evaluate whether changes work.

Finally, Parent Aware should consider whether to provide ratings to school age providers. Participation in a state's quality rating system is mandatory for Build Back Better funding but Build Back Better does not provide funding for child care for school age children.²²⁵ Historically, Parent Aware has not rated school age providers because its focus has been on rating a program's capacity to prepare children for Kindergarten (a moot point once a child has started school). However, not including school age providers in a state-wide quality rating system, especially if it were mandatory for licensed providers going forward, could lead to parental confusion. Parent Aware could address this by providing an automatic One Star rating for programs that are certified²²⁶ by the Department of Human Services and a Four Star rating for programs that are accredited by an approved accrediting body.²²⁷

Recommendation: Reform Parent Aware to mandate participation and align One Star ratings with child care licensing and certification standards, adopt recommendations issued in the Minnesota Family Child Care Task Force and Parent Aware Equity Report, embed cultural competence within Parent Aware quality standards and professional development requirements, and develop a plan to address family child care rating validity.

Suggested timeline: Mandate participation in Parent Aware, align One Star ratings with licensing standards, and submit a plan to address family child care rating validity by Sept. 1 of the year following enactment. Adopt task force and report recommendations, embed cultural competence standards and professional development by Sept. 1, no more than 3 years following enactment.

Suggested funding: State allocation (consider utilizing 2022 surplus budget funds), federal allocation (CCDF quality funding).

²²⁴ See Minn. Dep't Hum. Serv., *Minnesota Family Child Care Task Force: Legislative Report* (Feb. 2021), <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-8074-ENG>.

²²⁵ School age children will continue to have child care funded through the Child Care Development Fund (CCDF).

²²⁶ Certification is a newer DHS process implemented in response to the Child Care Block Grant Act of 2014 which mandated all providers, including those exempt from licensing, follow certain health and safety requirements to receive CCDF-funded state subsidy reimbursements. For more on certification, see Minn. Dep't Hum. Serv., *Certified Child Care Centers*, <https://mn.gov/dhs/partners-and-providers/licensing/child-care-and-early-education/certified-license-exempt/> (last visited Apr. 24, 2022).

²²⁷ Under Minn. Stat. § 119B.13, Subd. 3a.

Benchmarks: (C) Efficiency in program administration, (H) Publicly available quality information, (I) Improve Parent, (J) Increase Parent Aware participation, (K) Rating measure validity, (c) Home language support.

Tier Two: Program Enhancement and Expansion

Recommendations in this section may be contingent on Tier One changes either for technical or political reasons. Further, they provide pathways to scale reformed programs to reach a more universal system of early care and education supports.

Unlike Tier One recommendations which could be funded with existing allocations or one-time surplus funds, most of these recommendations would require significant, on-going state investment to implement, absent federal funding through Build Back Better. One option to secure such funding would be to pursue a constitutional amendment, either separate from efforts to adopt the Page Amendment or in collaboration with this movement, to establish a statewide sales tax to fund the program, like Minnesota’s Clean water, Land and Legacy Amendment.²²⁸ It is unclear what cost savings could be realized through the program integrity controls inherent in an electronic attendance recordkeeping system and through eliminating administrative redundancy. Further, most of these recommendations could not be implemented within the next five years and it is challenging to predict the funding environment or economic conditions that far in advance. For these reasons, while acknowledging there isn’t an existing dedicated funding source for these recommendations, beyond noting that additional on-going state investment is required, there are no further recommendations for how that funding should be identified.

Recommendation 5: Develop and Implement a New Eligibility System

The Minnesota Electronic Child Care System (MEC²) is outdated and cannot handle significant program changes efficiently and effectively. An updated system is necessary to expand eligibility, implement program controls, integrate with an electronic attendance recordkeeping system to automate provider payments, and simplify and expedite eligibility determinations for administering agencies.

Minnesota’s recent history in launching new technology systems²²⁹ is likely the biggest barrier to garnering the political will necessary to invest in a new system for child care subsidies. However,

²²⁸ See Minn.’s Legacy, *About the Funds*, (n.d.) <https://www.legacy.mn.gov/about-funds> (last visited May 6, 2022).

²²⁹ There were widespread complaints and controversy surrounding the release of the Minnesota Licensing and Registration System (MNLARS) and MNSURE systems. MNLARS was launched in 2017 to widespread frustration, leading to an audit of the project by the Minnesota Office of the Legislative Auditor and the system being replaced. See, e.g., Dave Orrick, *What went wrong with DMV computers? Everything and everyone, report finds*, Pioneer Press (Feb. 16, 2019 10:10 AM), <https://www.twincities.com/2019/02/14/mn-dmv-mnlars-report-department-driver-vehicle-services/>; Robert N. Charette, *The Costly Fiasco of Minnesota’s Licensing and Registration System*, IEEE Spectrum, (Mar. 3, 2018), <https://spectrum.ieee.org/minnesotas-licensing-and-registration-system-costly-chronic-fiasco> (last visited May 5, 2022); Jill Langland, *MNLARS still causing headaches for Minnesota drivers one year later*, DakotaNewsNow.com (Jul. 5, 2018 6:45 PM), <https://www.dakotanewsnow.com/content/news/MNLARS-still-causing-headaches-for-Minnesota->

the challenges Minnesota faced in launching previous systems are inherent in launching new software. “Large software development projects represent a significant risk to organizations. Many such projects are critical important to organizations’ daily operations, and they can be expensive to build or buy.”²³⁰ Minnesota should incorporate knowledge learned in these previous missteps in implementing a new technology system for early care and education programs.

Business practices for the programs must be streamlined prior to developing the business requirements for a new system. This is one of the core learnings taken from investigations into previous large-scale software system failures. It is for this reason only that this is a tier two versus tier one recommendation. It is contingent on efforts to improve program integrity, aligning existing subsidy programs, and establishing unified program oversight through a separate department of early childhood. Initial efforts in this process can begin before those recommendations are completed but must coordinate and collaborate with the direction of those changes. However, this is a critical and time-consuming endeavor that is already years too late.

Specifically, a new eligibility system should integrate with the electronic attendance records and payment system to streamline ECLP payments to providers. Although the ECLP recommendation outlined previously could be implemented in the short-term through MEC², it is not a good long-term solution, especially if eligibility expands with future investments. The system should also integrate with MNbenefits²³¹ which will reduce administrative burdens on county and tribal agencies administering the ECLP and lead to more efficient eligibility approvals. Finally, the system must continue to integrate or cross check data against other state programs,²³²

[drivers-one-year-later-487451831.html](#). MNSURE was launched in 2013 with similar issues between state agencies and contractors and failure to consider the technical nuances of the project. *See, e.g.*, Elizabeth Stawicki & Catherine Richert, *What Went Wrong With Minnesota’s Health Insurance Exchange*, MPRNews (Mar. 12, 2014), <https://khn.org/news/what-went-wrong-with-the-minnesota-insurance-exchange/>; Elizabeth Stawicki, *Contractor’s report slams MNsure weaknesses, readiness*, MPRNews (Jun. 18, 2014), <https://www.mprnews.org/story/2014/06/18/mnsure-report>; SC Times Editorial Board, *MNsure problems raise questions*, SC Times (Jan. 23, 2016 9:02 AM CST), <https://www.sctimes.com/story/opinion/2016/01/23/mnsure-problems-raise-questions/79125674/>.

²³⁰ Off. Legis. Auditor, *Factors that Contributed to MNLARS Problems: Special Review*, 6 (Feb. 14, 2019), <https://www.auditor.leg.state.mn.us/sreview/mnlarsfactors.pdf>.

²³¹ MNbenefits is an online application system launched in 2021 that “can be used to apply for nine different assistance programs, including . . . Child Care Assistance.” Rachel Sosnowchik, *The MNbenefits Application is a Game-Changer for Minnesota Families*, Second Harvest Heartland (Nov. 24, 2021), https://www.2harvest.org/content_types/blog-posts/the-mnbenefits-application-is.html. Unlike the previous online application, ApplyMN, MNbenefits is mobile-friendly and allows applicants to upload documents rather than having to send information verification to their county or tribal agency separately. *Id.* See mnbenefits.mn.gov.

²³² Note that many of these programs use outdated or non-existent systems to track program participants. MFIP and SNAP utilize the MAXIS system, the over 30-year-old system that functions as the “back end” of MEC². Many MDH supervised programs, like WIC or Family Home Visiting, do not have a statewide system tracking service delivery, rather local agencies that administer programs have their own varied systems and tracking mechanisms. Many of these programs should also get updated technology and resources.

including, but not limited to, the Minnesota Family Investment Program (MFIP), Supplemental Nutrition Assistance Program (SNAP), and Parent Aware. An updated system, housed in an integrated agency, also provides an opportunity to coordinate data across programs housed in other agencies, such as educational data in Minnesota Department of Education and other program data from the Minnesota Department of Health.

An ideal system would import data received through MNbenefits into the eligibility system and require an agency work to verify that the information submitted matches what was entered. When verification or information is missing, the system should automatically send notifications to the applicant via their preferred contact method, such as text, email, or paper mail. Currently, program applicants and participants only receive official notifications via USPS mail. This is a time-consuming process leading to delays not only due to the time it takes to print and mail notifications, but also because many families in need of financial subsidies do not have stable housing or mailing addresses.

Finally, policy changes to simplify program eligibility can be made contingent on the system completion. Simplifying program eligibility will be discussed later but tying these components together would allow the new system to launch sooner because complex program requirements require substantial programming and cross checks to implement.

Recommendation: Invest in a modern eligibility system for ECLP, integrated with other programs and MNbenefits, after streamlining program requirements.

Contingent on: Integrated Electronic Attendance Records and Payment System, Align Existing Subsidy Programs for Early Care and Education, Establish a Separate Department of Early Childhood

Suggested timeline: to launch by Sept. 1, 2030. Begin development efforts as soon as practicable.²³³

Suggested funding: State allocation (consider utilizing 2022 surplus budget funds), potential for Federal direct appropriation.

Benchmarks: (B) Improve program, (C) Efficiency in program administration, (L) Measure and track child outcomes.

Recommendation 6: Ensure Provider Reimbursement Rates Meet Costs of Quality

As previously noted, the child care market is not economically viable because the costs of providing quality care often exceed what families, without additional subsidies, can afford to pay, thus resulting in a system that is simultaneously unaffordable for most families and subsidized through its workforce making poverty-level wages. Because of this, there is some

For the purposes of this recommendation, the focus is on coordinating with existing systems and building flexible technology solutions that can be integrated with future systems.

²³³ As of the writing of this paper, legislation is pending in the Minnesota Legislature which would create and fund an account “to modernize early childhood programs information technology.” Minn. H. H.F. 4497, 92nd Leg., 2022 Sess. (Minn. 2022),

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF4497&ssn=0&y=2021>.

interest at the national level in shifting from a market rate model²³⁴ of provider reimbursement to a cost model approach.

Cost modeling can utilize market data to more accurately predict the true cost for a child care program to cover expenses including providing wages to staff on par with educators in public schools. “The Child Care and Development Block Grant (CCDBG) Act and the final Child Care and Development Fund (CCDF) rule require states to either replace or augment market rate surveys with alternative cost-based methodologies, including cost-estimation models or cost studies.”²³⁵

Using cost modeling, either to replace or augment a market rate survey is important to satisfy goals of ensuring that the child care workforce is compensated appropriately and provide the necessary resources to eliminate child care deserts and incentivize providing quality care.

Further, cost modeling would serve as a program integrity backstop to prevent unscrupulous child care providers from over charging families in the event that subsidies expand to the full extent predicted by Build Back Better. One concern of such a system would be price gouging by private industry. If nearly all families utilize some level of subsidy to cap the cost of their child care expenses to a percentage of their income, then there is no market force that would prevent child care providers from driving up costs with the expectation that government subsidies would pay any costs a provider charges that exceed a parent’s contribution. Utilizing cost modeling to inform or set provider rates, combined with a policy mandating the child care providers may not charge families additional costs beyond their income-determined copayments would be the primary driver to ensure provider reimbursements fund the cost of quality child care while still maintaining taxpayer protections and incentivizing providers to control costs where they can.

It is important that cost modeling mechanisms also include carve out measures for the costs of providing care for children with special needs and care during non-traditional work hours. For care for children with special needs, an updated eligibility system that was integrated with school district IEP/IFSP data could automatically provide higher reimbursement rates to programs serving children with documented disabilities. For children who need child care during non-traditional hours, an integrated attendance and payment system could automatically apply payment differentials, based on cost modeling, when care is provided outside standard child care delivery hours.

Finally, with an effective reimbursement system for child care providers, some safeguards must be implemented to ensure that the child care workforce is being compensated at a rate commensurate with the public school system. The Department of Early Childhood should set compensation minimums and programs should attest to following such compensation requirements. Annual reporting of worker wages and an audit system to verify information provided will provide taxpayer safeguards to ensure funds are utilized as intended. However,

²³⁴ See Minn. Dep’t Hum. Serv., *Minnesota Cost Modeling Report* (Aug. 31, 2020) (noting that “States have historically set reimbursement rates for child care subsidies based on market prices.” *Id.* at 5.), <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-7180-ENG>.

²³⁵ *Id.* (citing The CCDBG Act, as amended (42 U.S.C. § 9857 et seq.); Section 418 of the Social Security Act (42 U.S.C. § 618); 45 CFR Parts 98 and 99).

some of these safeguards must wait until ECLP is expanded to full scale, serving any family with an income less than 250% of the State Median Income. Until that time, market forces will continue to depress rates providers can charge, particularly child care providers who do not serve many families receiving subsidies.

Recommendation: Utilize cost modeling to set and maintain provider reimbursement rates at a level that provides sufficient resources that meet the full cost of care while controlling overall program costs. When systematically possible, automatically adjust reimbursement rates to provide for the true cost of providing care to children with disabilities and during non-traditional care hours.

Contingent on: Integrated Electronic Attendance Records and Payment System, Reform Parent Aware, Develop and Implement a New Eligibility System

Suggested timeline: After or at the same time as implementation of an integrated electronic attendance record keeping system. Elements of using cost modeling could be scaled with full implementation tied to aligning parent payment rates to Build Back Better tiers. Early phases of implementation should prioritize aligning rates for infants and toddlers, counties with documented child care deserts, and providers rated with Three or Four Stars in Parent Aware to target funding where it is both very necessary and easily implementable in the current eligibility and payment system.

Suggested funding: New, on-going state allocated funding would be necessary in the absence of new or increased federal funding (such as Build Back Better).

Benchmarks: (B) Improve program, (D) Cost and expense-validation, (E) Increase child care supply (F) Compensate early care and education workers, (G) Increase reimbursement, (a) Address increased costs.

Recommendation 7: Enhance Existing Data Tracking Incorporating Data Evaluation and Continuous Quality Improvement Efforts

The 2018 Report of Early Childhood Programs in Minnesota²³⁶ made several recommendations regarding evaluating and reporting program effectiveness. Recommendations included “requiring assessments of school readiness as children enter kindergarten,”²³⁷ and “direct[ing] the Minnesota departments of Education, Health and Human Services to plan a comprehensive approach for reevaluating the impact of early childhood programs.”²³⁸ The evaluation notes that “[t]o understand whether early childhood programs are effective, the state must collect and analyze appropriate information.”

Engaging in these efforts before addressing the current technology deficiencies and barriers to collaboration presented by data stored across different state agencies would not be as efficient as building in effective data sharing and collection in the development of new systems and statutory changes to consolidate programs in a single agency. Further, while evaluation to

²³⁶ See OLA *Early Childhood Programs* *supra* note 5.

²³⁷ *Id.* at 71.

²³⁸ *Id.* at 72.

ensure that public investment is producing expected educational outcomes is important, child care, provides public returns on its own by supporting parent participation in the workforce. For these reasons, this recommendation is suggested as a Tier Two change, contingent on consolidating programs and updating existing technology systems to improve data collection.

Recommendation: Require assessments of school readiness for all participants of ECLP and School Prekindergarten Programs.

Contingent on: Develop and Implement a New Eligibility System, Establish a Separate Department of Early Childhood

Suggested timeline: Plan for comprehensive approach for evaluating the impact of early childhood programs should be provided to the legislature by the Commissioner of the Department of Early Childhood by Sept. 1, two years following the department's establishment.

Suggested funding: State allocation, potential for Federal direct appropriation.

Benchmarks: (B) Improve program integrity, (D) Cost and expense-validation, (K) Rating measure validity, (L) Measure and track child outcomes.

Recommendation 8: Simplify Program Requirements and Application Processes

Current application and recertification requirements for the Child Care Assistance Program are burdensome and document-intensive. This is an issue experienced across many public assistance programs, with applicants facing both administrative burdens and red tape to apply for and receive benefits for which they qualify.²³⁹ Many of these challenges result from a failure of policy makers to consider the how they are balancing the benefits and the burdens of enacting rules and restrictions. "Not all rules are bad. Some rules promote public wellbeing, like policies that reduce the potential for fraud. But all burdens do exact a cost. An important – but oft ignored – question is what level of participation are we willing to advance a policy?"²⁴⁰ Many existing rules are about ensuring that a limited pool of resources is utilized only by those who "need" support. However, decisions about need are choices by policy makers, not moral absolutes. Moving from a subsidy program that limits eligibility to those with the lowest incomes to a program in which nearly every family will be eligible at some level will require a substantial shift in program rules and requirements to ensure full program access.

"The impact of administrative burden is well-researched and widely applicable. In programs with low administrative burden, like Social Security, take-up rates amongst eligible participants approaches 100 percent, but in programs with higher burden, like Medicaid, participation hovers around 50 percent."²⁴¹ Before ECLP could be expanded to the limits proposed by the

²³⁹ See Weston Merrick, *Administrative Burden*, Future Serv. Inst. (Oct. 2018), <http://futureservicesinstitute.org/s/Merrick-2018-FSIBrief003.pdf>.

²⁴⁰ *Id.* at 7.

²⁴¹ *Id.* at 3 (citing Janet Currie, *The Take up of Social Benefits*, Nat'l Bureau Econ. Res. (2004); Pamela Herd, et. al., *Shifting Administrative Burden to the State: The Case of Medicaid Take-Up*, 73(5) Pub. Admin. Rev. 741 (2012)).

Build Back Better proposal, the existing administrative burdens must be reduced or eliminated to the extent practicable to ensure access and protect program integrity.

Some of these requirements could be minimized by granting presumptive eligibility to families on certain other public assistance programs, such as MFIP, SNAP, or Medical Assistance. Other requirements could be reduced or eliminated by changing state laws or rules. For example, before CCAP will authorize child care for families, they must provide employment or school schedules for all parents and children in the household.²⁴² The program then authorizes a specific number of hours of child care based on overlap of schedules for parents, excluding hours when children are in school.²⁴³ This process is error-prone, time consuming, and does not result in substantial programmatic cost savings. Further, it creates additional burdens on child care providers who must then be aware of each family's specific authorized schedule and bill based on the schedule, even when the total amount paid for each family is the same.²⁴⁴

Another significant challenge involves defining and assessing a family's income to determine eligibility. In 2015, the Minnesota Legislature adopted a more "uniform income calculation for public assistance programs . . . intended to improve administrative efficiency."²⁴⁵ However, the definitions of income, particularly unearned income, are still extensive and challenging for case workers to assess accurately.²⁴⁶ An alternative approach to determining eligibility and subsidy amounts could rely on reconciling differences in payments made on behalf of children annually when a family files their income taxes. Such an approach would also provide a means for families who do not want to enroll in the program upfront and could instead pay for child care out of pocket and accept ECLP benefits in the form of a tax credit. In some ways, this method would mirror the temporary changes to the child tax credit made by the American Rescue Plan

²⁴² See *Child Care Assistance (CCAP) Manual* supra note 46 at 7.3, https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=CCAP_0703.

²⁴³ See *id.* at 7.27, https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=ccap_0727.

²⁴⁴ See *CCAP Provider Guide*, Minn. Dep't Hum. Serv., 39 <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5260-ENG> (instructing providers that they must "[f]ill out the number of hours that the child was scheduled and authorized to be in care for each day in the service period." An example of the challenges in this for providers is if there is a family with a child who is scheduled and authorized to attend 9 hours a day, Monday-Thursday and another child who is scheduled to attend 5 hours per day on Monday, Wednesday, and Friday, and 10 hours per day on Tuesday and Thursday. Each of these children are scheduled and authorized for at least 35 hours of care in the week which means payment will be for a full weekly rate despite the difference in schedule. Many child care providers will not limit attendance provided care will be paid at a full weekly rate, treating families on subsidy the same as privately paying families. An error in completing the billing forms, even if there was no difference in the amount paid, could be considered fraudulent billing by the provider and result in civil or criminal penalties.)

²⁴⁵ Off. Senate Couns., Res., & Fiscal Analysis, *Fiscal Review: 2015 Session*, Minnesota State Senate, 46-47 (Eric Nauman, Dan Mueller, & Krista Boyd, eds. 2015), https://www.senate.mn/departments/scr/freview/2015/fiscal_review.pdf.

²⁴⁶ See Minn. Stat. § 256P.06 for income calculations for public assistance programs.

Act (ARPA) which “made the [child] tax credit fully refundable and paid out half of the total credit in monthly payments for the first six months, rather than once per year.”²⁴⁷

Before ECLP could be expanded to families beyond the 85% of the State Median Income, program requirements and application processes would need to be streamlined to ensure that the system could take on additional capacity without substantially increasing the staffing needs for local agencies determining eligibility. Allowing a tax reconciliation or credit option to receive ECLP benefits would be another method of ensuring high uptake and universal benefits. Further, even with a fully scaled ECLP program, families who have children five years and younger and children who are school age may find themselves paying more than what Build Back Better proposes is affordable due to the combined income percentage for children utilizing ECLP and school age children whose care may be paid for entirely out-of-pocket. A tax reconciliation option would help cover costs for these families, should Minnesota wish to do so.

Recommendation: Simplify and streamline program application requirements, eliminating excessive administrative burdens whose program integrity benefits do not outweigh their implementation costs. Further, consider alternative uptake methods including via tax return credit or reconciliation of benefits.

Contingent on: Integrated Electronic Attendance Records and Payment System, Align Existing Subsidy Programs for Early Care and Education, Develop and Implement a New Eligibility System

Suggested timeline: Tie to New Eligibility System, no later than Sept. 1, 2030.

Suggested funding: Costs for simplifying and streamlining policies are unclear as it is hard to predict what percentage of families opt out of applying for benefits they could receive due to administrative burdens. Agencies administering benefits may see cost savings due to reduction in staff time necessary to process benefits.

Benchmarks: (C) Efficiency in program administration, (E) Increase child care supply.

Recommendation 9: Expand Early Learning and Care Program (ELCP) eligibility to scale

Expanding eligibility to ECLP to families beyond 85% of the State Median Income (SMI) or offering School Prekindergarten Program to every interested child would require new funding sources even after administrative efficiencies are captured. One way to make new spending more palatable is to phase in new tiers over time. There are two aspects to expanding eligibility to scale, with scale referring to benefit levels proposed by the Build Back Better plan. The first aspect is expanding eligibility to families with incomes up to 250% of SMI. The second aspect is reducing parent copayments to no more than 7% of family income.

²⁴⁷ Nat’l Conf. St. Legislatures, *Child Tax Credit Overview* (Apr. 29, 2022), [https://www.ncsl.org/research/human-services/child-tax-credit-overview.aspx#:~:text=The%20American%20Rescue%20Plan%20Act,previous%20limit%20of%20age%2016\).](https://www.ncsl.org/research/human-services/child-tax-credit-overview.aspx#:~:text=The%20American%20Rescue%20Plan%20Act,previous%20limit%20of%20age%2016).)

Currently, families whose income is at or exceeds 85% of SMI are unlikely to receive any benefits. Further, of those who are eligible for benefits, very few pay parent portions that meet the Build Back Better benchmarks.²⁴⁸ Determining which to tackle first will be dependent on available funding and legislative priorities. A decision to prioritize reducing parent payment amounts before expanding eligibility to families with incomes at or exceeding 85% of SMI would target making care affordable to families with the lowest incomes, while a decision to prioritize expanded income eligibility would move towards a more universal system. Ideally, some alignment for parent payment amounts would occur when existing subsidy programs are aligned to create ECLP.

As to how the legislature should proceed once all previous recommendations are adopted, this is a policy determination that is especially hard to predict due to uncertainty about how the economic and child care landscapes would be affected by those other changes. An option worth considering is to start with expanding financial eligibility for ECLP to 150% of SMI, then align parent payment amounts to Build Back Better Proposals, if not previously completed, then move forward with full eligibility expansion to 250% of SMI. Providing two years between each of these steps will give agencies time to add capacity to address additional caseloads and mitigate some of the sticker shock for expansion.

Recommendation: Scale program eligibility based on future child care ecosystem and economic constraints after earlier recommendations are adopted. Consider (1) aligning parent payment portions first as part of ECLP expansion, next (2) expanding eligibility to families up to 150% of SMI, then (3) ensuring full parent payment affordability before, finally (4) fully expanding eligibility to any family making less than 250% of SMI.

Contingent on: Integrated Electronic Attendance Records and Payment System, Align Existing Subsidy Programs for Early Care and Education, Develop and Implement a New Eligibility System

Suggested timeline: Begin expansion no later than Sept. 1, 2034, with the goal of full expansion by Sept. 1, 2040.

Suggested funding: New, on-going state allocated funding would be necessary in the absence of new or increased federal funding (such as Build Back Better).

Benchmarks: (A) Align parent copayments, (E) Increase child care supply, (F) Compensate early care and education workers, (J) Increase Parent Aware participation.

Conclusion

Over the last two decades, Minnesota has made many significant investments in young children. Additionally, issues within the system have been evaluated, deliberated, and debated ad

²⁴⁸ Families utilizing Early Learning Scholarships receive a flat scholarship amount, irrespective of their income or program cost. Families on Child Care Assistance Program pay a copayment based on a sliding fee scale set by statute. Minn. Stat. § 119B.12. Families below 75% of federal poverty guidelines pay no copayment but these are the only families whose parent portion currently aligns with Build Back Better affordability guidelines.

nauseum. Despite this, Minnesota’s early care and education system remains inaccessible to many families and laden with administrative burdens preventing the families who are eligible for financial assistance from receiving effective support.

There are no easy solutions to the structural and institutional issues making Minnesota’s child care landscape excessively complex, inefficient, and vulnerable to ineffective and malicious misuse of taxpayer funds. Outlined in this paper are nine, comprehensive recommendations which could be implemented in the next two decades which would transform Minnesota’s early care and education system to promote affordability, access, and quality. Such a system would lead the nation in its universality.

As much as one may hope that such a system could completely close the nation-leading racial achievement gaps in Minnesota’s educational system, without broader, comprehensive whole family approaches to addressing barriers to educational achievement, the overall impact of universal early childhood education will be limited.²⁴⁹ This is not an argument against adoption of such a system, which will produce benefits outside of educational attainment including measurable impacts on financial resources for young families, increases in workforce participation by parents, and a new field of livable wage jobs. Rather, this is a caution for those who may believe that quality early childhood education is a panacea against adverse childhood experiences. “Ensur[ing] a strong start for children,”²⁵⁰ is only one strategy for preventing the adverse childhood experiences that are the most significant drivers of educational challenges.

²⁴⁹ See *supra* note 219 for discussion of non-educational factors significantly impacting Minnesota’s achievement gaps.

²⁵⁰ Nat’l Cent. Inj. Prevention & Control, Division of Violence Prevention, *Fast Facts: Preventing Adverse Childhood Experiences*, Centers for Disease Control and Prevention (Apr. 6, 2022), <https://www.cdc.gov/violenceprevention/aces/fastfact.htm>.

Appendix: Cross reference grid of Success Benchmarks and Recommendations

	1 Integrated Electronic Attendance Records & Payment System	2: Align Existing Subsidy Programs for Early Care and Education	3: Establish a Separate Department of Early Childhood	4: Reform Parent Aware
<i>(M) Align parent copayments</i>		X		
<i>(N) Improve program integrity</i>	X	X	X	
<i>(O) Efficiency in program administration</i>	X	X	X	X
<i>(P) Cost and expense-validation</i>				
<i>(Q) Increase child care supply</i>		X		
<i>(R) Compensate early care and education workforce</i>				
<i>(S) Increase reimbursement rates</i>		X		
<i>(T) Publicly available quality information</i>				X
<i>(U) Improve Parent Aware</i>				X
<i>(V) Increase Parent Aware Participation</i>		X		X
<i>(W) Rating Measure Validity</i>				X
<i>(X) Measure and Track Child Outcomes</i>				
<i>(a) Address increase costs</i>				
<i>(b) Children in undocumented families</i>		X		
<i>(c) Home language support</i>				X

	5: Develop and Implement a New Eligibility System	6: Ensure Provider Reimbursement Rates Meet Costs of Quality	7: Enhance Existing Data Tracking Incorporating Data Eval...	8: Simplify Program Requirements and Application Processes	9: Expand Early Learning and Care Program (ELCP) eligibility to scale
<i>(A) Align parent copayments</i>					X
<i>(B) Improve program integrity</i>	X	X	X		
<i>(C) Efficiency in program administration</i>	X			X	
<i>(D) Cost and expense-validation</i>		X	X		
<i>(E) Increase child care supply</i>		X		X	X
<i>(F) Compensate early care and education workforce</i>		X			X
<i>(G) Increase reimbursement rates</i>		X			
<i>(H) Publicly available quality information</i>					
<i>(I) Improve Parent Aware</i>					
<i>(J) Increase Parent Aware Participation</i>					X
<i>(K) Rating Measure Validity</i>			X		
<i>(L) Measure and Track Child Outcomes</i>	X				
<i>(a) Address increase costs</i>		X			
<i>(b) Children in undocumented families</i>					
<i>(c) Home language support</i>					