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Home-based Childcare Solutions

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Tiara Auxier

2

LONG TITLE

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General Description:

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This bill creates the Home-based Child Care Capacity Expansion Grant Program and modifies provisions related to caring for children.

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Highlighted Provisions:

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This bill:

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- ▶ defines terms;

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- ▶ requires registration for a home-based child care provider when providing child care for a certain number of qualifying children;

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- ▶ amends provisions of criminal background check requirements for a child care provider;

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- ▶ creates the Home-based Child Care Capacity Expansion Grant Program;

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- ▶ makes technical and conforming changes; and

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- ▶ provides intent language that provides for funds appropriated from the General Fund shall be nonlapsing.

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Money Appropriated in this Bill:

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This bill appropriates \$2,300,000 in operating and capital budgets for fiscal year 2027, all of which is from the General Fund.

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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26B-2-401, as last amended by Laws of Utah 2023, Chapter 249 and renumbered and amended by Laws of Utah 2023, Chapter 305

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26B-2-403, as renumbered and amended by Laws of Utah 2023, Chapter 305

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26B-2-404, as last amended by Laws of Utah 2024, Chapter 235

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26B-2-405, as last amended by Laws of Utah 2024, Chapter 235

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26B-2-406, as last amended by Laws of Utah 2024, Chapter 235

24

ENACTS:

S.B. 214

31 **26B-2-411**, Utah Code Annotated 1953

32 **35A-3-211**, Utah Code Annotated 1953

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **26B-2-401** is amended to read:

36 **26B-2-401 . Definitions.**

37 As used in this part:

38 (1) "Capacity limit" means the maximum number of qualifying children that a regulated
39 provider may care for at any given time, in accordance with rules made by the
40 department.

41 (2)(a) "Center based child care" means child care provided in a facility or program that
42 is not the home of the provider.

43 (b) "Center based child care" does not include:

44 (i) residential child care; or

45 (ii) care provided in a facility or program exempt under Section 26B-2-405.

46 (3) "Certified provider" means a person who holds a certificate from the department under
47 Section 26B-2-404.

48 (4) "Child care" means continuous care and supervision of a qualifying child, that is:

49 (a) in lieu of care ordinarily provided by a parent in the parent's home;

50 (b) for less than 24 hours a day; and

51 (c) for direct or indirect compensation.

52 (5) "Child care program" means a child care facility or program operated by a regulated
53 provider.

54 (6) "Exempt provider" means a person who provides care described in Subsection
55 26B-2-405(2).

56 (7) "Licensed provider" means a person who holds a license from the department under
57 Section 26B-2-403.

58 (8) "Licensing committee" means the Child Care Provider Licensing Committee created in
59 Section 26B-1-204.

60 (9) "Public school" means:

61 (a) a school, including a charter school, that:

62 (i) is directly funded at public expense; and

63 (ii) provides education to qualifying children for any grade from first grade through
64 twelfth grade; or

65 (b) a school, including a charter school, that provides:

66 (i) preschool or kindergarten to qualifying children, regardless of whether the
67 preschool or kindergarten is funded at public expense; and

68 (ii) education to qualifying children for any grade from first grade through twelfth
69 grade, if each grade, from first grade to twelfth grade, that is provided at the
70 school, is directly funded at public expense.

71 (10) "Qualifying child" means an individual who is:

72 (a)(i) under the age of 13 years old; or

73 (ii) under the age of 18 years old, if the person has a disability; and

74 (b) a child of:

75 (i) a person other than the person providing care to the child;

76 (ii) a regulated provider, if the child is under the age of four; or

77 (iii) an employee or owner of a licensed child care center, if the child is under the age
78 of four.

79 (11) "Registered home-based child care provider" means a child care provider who receives
80 a registration from the department under Section 26B-2-411.

81 (12) "Regulated provider" means a [licensed provider or certified provider.] certified
82 provider, licensed provider, or registered home-based child care provider.

83 [(12)] (13) "Residential child care" means child care provided in the home of the provider.

84 Section 2. Section **26B-2-403** is amended to read:

85 **26B-2-403 . Licensure requirements -- Expiration -- Renewal.**

86 (1) Except as provided in Section 26B-2-405, and subject to Subsection (2), a person shall
87 obtain a license from the department if:

88 (a) the person provides center based child care for five or more qualifying children;

89 (b) the person provides residential child care for [nine] 11 or more qualifying children; [or]

90 (c) the person is registered as a home-based child care provider in accordance with
91 Section 26B-2-411, and participates in the Home-based Child Care Capacity
92 Expansion Grant Program created under Section 35A-3-211; or

93 [(e)] (d) the person:

94 (i) provides child care;

95 (ii) is not required to obtain a license under Subsection (1)(a)[or (b)] , (b), or (c); and

96 (iii) requests to be licensed.

97 (2) Notwithstanding Subsection (1), a certified provider may, in accordance with rules
98 made by the department under Subsection 26B-2-402(3), exceed the certified provider's

99 capacity limit to provide after school child care without obtaining a license from the
100 department.

101 (3) The department may issue licenses for a period not exceeding 24 months to child care
102 providers who meet the requirements of:
103 (a) this part; and
104 (b) the department's rules governing child care programs.

105 (4) A license issued under this part is not assignable or transferable.

106 Section 3. Section **26B-2-404** is amended to read:

107 **26B-2-404 . Residential Child Care Certificate.**

108 (1) Except as provided in ~~[Section 26B-2-405]~~ Sections 26B-2-405 and 26B-2-411, a person
109 may request a Residential Child Care Certificate from the department if the person
110 provides residential child care for ~~[eight]~~ 10 or fewer qualifying children.
111 (2) The minimum qualifications for a Residential Child Care Certificate are:
112 (a) the submission of:
113 (i) an application in the form prescribed by the department;
114 (ii) a certification and criminal background fee established in accordance with
115 Section 26B-1-209; and
116 (iii) in accordance with Section 26B-2-406, identifying information for each adult
117 person and each juvenile age 12 through 17 years old who resides in the provider's
118 home:
119 (A) for processing by the Department of Public Safety to determine whether any
120 such person has been convicted of a crime;
121 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile
122 court; and
123 (C) to discover whether the person is listed in the Licensing Information System
124 described in Section 80-2-1002;
125 (b) an initial and annual inspection of the provider's home within 90 days of sending an
126 intent to inspect notice to:
127 (i) check the immunization record, as defined in Section 53G-9-301, of each
128 qualifying child who receives child care in the provider's home;
129 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and
130 (iii) make appropriate recommendations; and
131 (c) annual training consisting of 10 hours of department-approved training as specified
132 by the department by administrative rule, including a current department-approved

CPR and first aid course.

- (3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.
- (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a certified provider in response to a complaint of:
 - (a) child abuse or neglect;
 - (b) serious health hazards in or around the provider's home; or
 - (c) providing residential child care without the appropriate certificate or license.
- (5) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 4. Section **26B-2-405** is amended to read:

**26B-2-405 . Exclusions from part -- Criminal background checks by an excluded
n.**

(1)(a) Except as provided in Subsections (1)(b) and (1)(c), the provisions and requirements of this part do not apply to:

- (i) a facility or program owned or operated by an agency of the United States government;
- (ii) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;
- (iii) a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection;
- (iv) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;
- (v) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state;
- (vi) care provided at a residential support program that is licensed by the department;
- (vii) center based child care for four or fewer qualifying children, unless the provider requests to be licensed under Section 26B-2-403; or
- (viii) residential child care for [eight] 10 or fewer qualifying children, unless the provider requests to be licensed under Section 26B-2-403[-or-], certified under Section 26B-2-404[.], or registered home-based child care under Section

167 26B-2-411.

168 (b)(i) A person that ~~does not hold a license or certificate~~ is not a regulated provider
169 from the department under this part may not, at any given time, provide child care
170 in the person's home for more than 10 children in total under ~~the age of~~ 13 years
171 old, or under [the age of] 18 years old if a child has a disability, regardless of
172 whether a child is related to the person providing child care.

173 (ii) A person providing care described in Subsection (1)(a)(viii) may not provide, at
174 any given time, child care in the person's home for more than two children who
175 are under three years old.

176 (c) A person providing care described in Subsection (1)(a)(viii) that is not a ~~certified~~
177 ~~provider or a licensed provider~~ regulated provider under this part is subject to the
178 requirements of Section 26B-2-406.

179 (2) The licensing~~-and-~~ , certification, and registration requirements of this part do not apply
180 to:

181 (a) care provided to a qualifying child as part of a course of study at or a program
182 administered by an educational institution that is regulated by the boards of education
183 of this state, a private education institution that provides education in lieu of that
184 provided by the public education system, or by a parochial education institution;

185 (b) care provided to a qualifying child by a public or private institution of higher
186 education, if the care is provided in connection with a course of study or program,
187 relating to the education or study of children, that is provided to students of the
188 institution of higher education;

189 (c) care provided to a qualifying child at a public school by an organization other than
190 the public school, if:
191 (i) the care is provided under contract with the public school or on school property; or
192 (ii) the public school accepts responsibility and oversight for the care provided by the
193 organization;

194 (d) care provided to a qualifying child as part of a summer camp that operates on federal
195 land pursuant to a federal permit;

196 (e) care provided by an organization that:
197 (i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue
198 Code;
199 (ii) provides care pursuant to a written agreement with:
200 (A) a municipality, as defined in Section 10-1-104, that provides oversight for the

201 program; or

202 (B) a county that provides oversight for the program; and

203 (iii) provides care to a child who is over [the age of] four years old and under [the age
204 of] 13 years old; or

205 (f) care provided to a qualifying child at a facility where:

206 (i) the parent or guardian of the qualifying child is at all times physically present in
207 the building where the care is provided and the parent or guardian is near enough
208 to reach the child within five minutes if needed;

209 (ii) the duration of the care is less than four hours for an individual qualifying child in
210 any one day;

211 (iii) the care is provided on a sporadic basis;

212 (iv) the care does not include diapering a qualifying child; and

213 (v) the care does not include preparing or serving meals to a qualifying child.

214 (3) An exempt provider shall submit to the department:

215 (a) the information required under Subsections 26B-2-406(1) and (2); and

216 (b) of the children receiving care from the exempt provider:

217 (i) the number of children who are less than two years old;

218 (ii) the number of children who are at least two years old and less than five years old;
219 and

220 (iii) the number of children who are five years old or older.

221 (4) An exempt provider shall post, in a conspicuous location near the entrance of the
222 exempt provider's facility, a notice prepared by the department that:

223 (a) states that the facility is exempt from licensure[and] ,certification, and registration;
224 and

225 (b) provides the department's contact information for submitting a complaint.

226 (5)(a) Except as provided in Subsection (5)(b), the department may not release the
227 information the department collects from exempt providers under Subsection (3).

228 (b) The department may release an aggregate count of children receiving care from
229 exempt providers, without identifying a specific provider.

230 Section 5. Section **26B-2-406** is amended to read:

231 **26B-2-406 . Disqualified individuals -- Criminal history checks -- Payment of
232 costs.**

233 (1)(a) Each exempt provider, except as provided in Subsection (1)(c), each person
234 described in Subsection 26B-2-405(1)(a)(viii) that is not a [certified provider or a

235 licensed provider] regulated provider, and each person requesting a residential
236 certificate[~~or~~] , to be licensed or to renew a license, or to register as a home-based
237 child care provider under this part shall submit to the department the name and other
238 identifying information, which shall include fingerprints, of existing, new, and
239 proposed:

- 240 (i) owners;
- 241 (ii) directors;
- 242 (iii) members of the governing body;
- 243 (iv) employees;
- 244 (v) providers of care;
- 245 (vi) volunteers, except parents of children enrolled in the programs; and
- 246 (vii) all adults residing in a residence where child care is provided.

247 (b)(i) The [Utah]Division of Criminal Investigation and Technical Services within
248 the Department of Public Safety shall process the information required under
249 Subsection (1)(a) to determine whether the individual has been convicted of any
250 crime.
251 (ii) The [Utah]Division of Criminal Investigation and Technical Services shall
252 submit fingerprints required under Subsection (1)(a) to the FBI for a national
253 criminal history record check.
254 (iii) A person required to submit information to the department under Subsection (1)
255 shall pay the cost of conducting the record check described in this Subsection
256 (1)(b).

257 (c) An exempt provider who provides care to a qualifying child as part of a program
258 administered by an educational institution that is regulated by the State Board of
259 Education is not subject to this Subsection (1), unless required by the Child Care and
260 Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

261 (2)(a)(i) Each person requesting ~~[a residential certificate or to be licensed or to renew~~
262 ~~a license under this part and]~~ to be regulated under this part shall submit to the
263 department the name and other identifying information of any person ages 12
264 through 17 who resides in the residence where the child care is provided.
265 (ii) [each] Each person described in Subsection 26B-2-405(1)(a)(viii) that is not a [
266 ~~certified provider or a licensed provider]~~ regulated provider shall submit to the
267 department the name and other identifying information of any person age 12
268 through 17 who resides in the residence where the child care is provided.

269 [({iii})] (iii) The identifying information required under Subsections (2)(a)(i) and (ii) for
270 a person age 12 through 17 does not include fingerprints.

271 (b) The department shall access the juvenile court records to determine whether a person
272 described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of
273 committing an act which if committed by an adult would be a felony or misdemeanor
274 if:

275 (i) the person described in Subsection (1) is under [the age of] 28 years old; or

276 (ii) the person described in Subsection (1) is:

277 (A) over [the age of] 28 years old; and

278 (B) has been convicted, has pleaded no contest, or is currently subject to a plea in
279 abeyance or diversion agreement for a felony or misdemeanor.

280 (3) Except as provided in Subsections (4) and (5), a licensee under this part, a person
281 described in Subsection 26B-2-405(1)(a)(viii) that is not a [certified provider or a
282 licensed provider] regulated provider, or an exempt provider may not permit a person
283 who has been convicted, has pleaded no contest, or is currently subject to a plea in
284 abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of
285 Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act
286 which if committed by an adult would be a felony or a misdemeanor, to:

287 (a) provide child care;

288 (b) provide volunteer services for a child care program or an exempt provider;

289 (c) reside at the premises where child care is provided; or

290 (d) function as an owner, director, or member of the governing body of a child care
291 program or an exempt provider.

292 (4)(a) The department may, by rule, exempt the following from the restrictions of
293 Subsection (3):

294 (i) specific misdemeanors; and

295 (ii) specific acts adjudicated in juvenile court, which if committed by an adult would
296 be misdemeanors.

297 (b) In accordance with criteria established by rule, the executive director may consider
298 and exempt individual cases not otherwise exempt under Subsection (4)(a) from the
299 restrictions of Subsection (3).

300 (5) The restrictions of Subsection (3) do not apply to the following:

301 (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a
302 date 10 years or more before the date of the criminal history check described in this

section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

(6) The department may retain background check information submitted to the department for up to one year after the day on which the covered individual is no longer associated with a Utah child care provider.

Section 6. Section **26B-2-411** is enacted to read:

26B-2-411 . Home-based child care provider registration.

(1) Except as provided in Sections 26B-2-405 and 35A-3-211, a person shall register with the department as a registered home-based child care provider if the person provides residential child care for:

- (a) more than four qualifying children; and
- (b) fewer than 10 qualifying children.

(2) A person providing care described in Subsection (1) may not provide, at any given time, child care in the person's home for more than two children who are under three years old

(3) The minimum qualifications for home-based child care registration are:

(a) the submission of:

(i) certification and criminal background fee established in accordance with Section 26B-1-209;

(ii) in accordance with Section 26B-2-406, fingerprints and identifying information for each adult person who resides in the provider's home, and identifying information for each juvenile ages 12 through 17 who resides in the provider's home:

(A) for obtaining and evaluating relevant information from the Criminal Investigations and Technical Services Division of the Department of Public Safety;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;

(C) to discover whether the person is listed in the Licensing Information System described in Section 80-2-1002; and

(D) to access the juvenile court records to determine whether a person described in Subsection (3)(a)(ii) has been adjudicated in juvenile court of committing an act, which if committed by an adult, would be a felony or misdemeanor; and

(iii) the identifying information required for a person ages 12 through 17 does not include fingerprints;

(b) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course; and

(c) signing an acknowledgment that the person shall immediately report suspected child abuse or neglect, in accordance with Section 80-2-602.

(4) A registrant under this section shall disclose with families contracting care current registration status:

(a) for a period of two years beginning on the day on which the department revokes a previous license or certificate, if a previous license or certificate was revoked; and

(b) for a period of two years beginning on the day on which the department denies a previous certificate, license, or registration, if a previous certificate, license, or registration was denied.

(5) If the department revokes or denies an application for a registration or license under this part, the person may not operate a child care program for two years beginning on the day on which the department denies or revokes the registration or license application.

(6) Except as provided in Section 35A-3-211, a registered home-based child care provider may also obtain a certificate or license as provided in this chapter.

(7) With respect to home-based child care, the department may only make and enforce rules necessary to implement this section.

Section 7. Section **35A-3-211** is enacted to read:

35A-3-211 . Home-based Child Care Capacity Expansion Grant Program.

(1) As used in this section:

(a) "Capacity limit" means the same as that term is defined in Section 26B-2-401.

(b) "CCQS" means the Child Care Quality System created by the office.

(c) "Child care" means the same as that term is defined in Section 26B-2-401.

(d) "Child care desert" means a county with more than three children under five years old for every regulated child care slot.

(e) "Grant" means a home-based child care capacity expansion grant program award described in this section.

(f) "Non-traditional hours" means:

(i) for a weekday:

371 (A) hours beginning before 8 a.m.; or

372 (B) hours after 6 p.m.; or

373 (ii) any time on a weekend.

374 (g) "Program" means the Home-based Child Care Capacity Expansion Grant Program
375 created in Subsection (2).

376 (h) "Qualifying child" means the same as that term is defined in Section 26B-2-401.

377 (i) "Registered home-based child care provider" means the same as that term is defined
378 in Section 26B-2-401.

379 (2) This section creates the Home-based Child Care Capacity Expansion Grant Program.

380 (3) Beginning on July 1, 2026, the office may award a grant to a person:

381 (a) seeking to start a registered home-based child care business; or

382 (b) who operates as a registered home-based child care provider in accordance with
383 Section 26B-2-411.

384 (4) A grant recipient described in Subsection (3) who is not already licensed with the
385 Department of Health and Human Services in accordance with Title 26B, Chapter 2,
386 Part 4, Child Care Licensing, shall apply for a license no later than 90 days after the day
387 on which the recipient receives the award.

388 (5) The office shall prioritize grant applications for home-based child care centers based on
389 one, or a combination of factors that:

390 (a) expand child care capacity;

391 (b) operate within a child care desert;

392 (c) operate during non-traditional hours;

393 (d) participate in CCQS; or

394 (e) other factors determined by the office by rule, in accordance with Subsection (11).

395 (6)(a) A grant recipient shall use a grant award for:

396 (i) expenses directly related to obtaining and maintaining a license from the
397 Department of Health and Human Services;

398 (ii) minor home modifications that directly benefit the qualifying children;

399 (iii) equipment and materials used for the home-based child care business;

400 (iv) expenses related to starting or expanding a home-based child care business;

401 (v) wages and compensation for employees of the home-based child care business; or

402 (vi) other qualified expenses directly related to starting, expanding, or improving a
403 home-based child care business, as defined by rule made in accordance with
404 Subsection (11).

405 (b) A grant recipient may not use a grant award for:
406 (i) a mortgage payment;
407 (ii) a rent payment; or
408 (iii) other ineligible expenses, as defined by rule made in accordance with Subsection
409 (11).

410 (7) Grant awards may not exceed \$5,000.

411 (8) A grant recipient shall:

412 (a) maintain expanded child care capacity for at least 24 months;
413 (b) maintain a license from the Department of Health and Human Services in accordance
414 with Title 26B, Chapter 2, Part 4, Child Care Licensing; and
415 (c) report to the office:
416 (i) the capacity limit before and after grant expenditures;
417 (ii) operating hours, including non-traditional hours;
418 (iii) date of enrollment in the CCQS and level achieved, if applicable; and
419 (iv) other metrics determined by the office.

420 (9)(a) If the office determines that a grant recipient is out of compliance with the
421 requirements described in this section, the office shall notify the grant recipient of the
422 determination of noncompliance.

423 (b) After receiving the notice described in Subsection (9)(a), the grant recipient shall
424 return the grant award, in a prorated amount, no later than 90 days from the day the
425 recipient is found noncompliant.
426 (c) The office may issue a new grant, in accordance with Subsection (3), with the
427 returned grant award described in Subsection (9)(b).

428 (10) On or before November 1, the office shall annually report to the Economic
429 Development and Workforce Services Interim Committee and the Health and Human
430 Services Interim Committee on:

431 (a) the number of applications to the program;
432 (b) the number of approved applications for the program;
433 (c) the number of new child care slots created by the program; and
434 (d) other metrics determined by the office.

435 (11) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah
436 Administrative Rulemaking Act, to administer the program, including to:
437 (a) create a grant application process;
438 (b) determine requirements for grant eligibility;

- (c) determine tiered grant award amounts using the factors described under Subsection (5);
- (d) define qualified expenses; and
- (e) other rules necessary for the implementation of the grant program.

Section 8. **FY 2027 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2026, and ending June 30, 2027. These are additions to amounts previously appropriated for fiscal year 2027.

Subsection 8(a). Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Department of Workforce Services - Operations and Policy

From General Fund, One-time 2,300,000

Schedule of Programs:

Child Care Assistance 2,300,000

In accordance with Section 63J-1-603 of the

Utah Code, the Legislature intends that up to \$2,300,000 of the one-time General fund provided in Item 1 for the Department of Workforce Services' Operations and Policy line item shall not lapse at the close of fiscal year 2027. The use of any nonlapsing funds is limited to the home-based child care capacity expansion program.

Section 9. Effective Date.

This bill takes effect on May 6, 2026.