

**CHILD CARE SERVICES AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Escamilla**

House Sponsor: Robert M. Spendlove

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**LONG TITLE**

**General Description:**

This bill enacts the Child Care Capacity Expansion Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Child Care Capacity Expansion Act;
- ▶ describes the purpose of the Child Care Capacity Expansion Act;
- ▶ directs certain state departments to collaborate on implementing the Child Care Capacity Expansion Act;
- ▶ creates a restricted account; and
- ▶ requires an annual report to legislative committees.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**63N-22-101**, Utah Code Annotated 1953

**63N-22-102**, Utah Code Annotated 1953

**63N-22-103**, Utah Code Annotated 1953



- 28 [63N-22-104](#), Utah Code Annotated 1953
- 29 [63N-22-105](#), Utah Code Annotated 1953
- 30 [63N-22-106](#), Utah Code Annotated 1953
- 31 [63N-22-107](#), Utah Code Annotated 1953
- 32 [63N-22-201](#), Utah Code Annotated 1953
- 33 [63N-22-202](#), Utah Code Annotated 1953
- 34 [63N-22-203](#), Utah Code Annotated 1953



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

37 Section 1. Section **63N-22-101** is enacted to read:

38 **CHAPTER 22. CHILD CARE CAPACITY EXPANSION ACT**

39 **Part 1. Employer-based, State-assisted Child Care Capacity Expansion Program**

40 **63N-22-101. Definitions.**

41 As used in this chapter:

42 (1) "Capacity limit" means the same as that term is defined in Section [26B-2-401](#).

43 (2) "Center based child care" means the same as that term is defined in Section

44 [26B-2-401](#).

45 (3) "Child care" means the same as that term is defined in Section [26B-2-401](#).

46 (4) "Child care program" means the same as that term is defined in Section [26B-2-401](#).

47 (5) "Community member" means an individual who:

48 (a) resides no more than 30 miles from an expanded child care opportunity facility;

49 (b) works at a location no more than 15 miles from an expanded child care opportunity

50 facility; or

51 (c) is a state employee.

52 (6) "Economically disadvantaged" means a child who is:

53 (a) experiencing intergenerational poverty;

54 (b) a member or foster child of a family with an annual income at or below 200%

55 federal poverty level; or

56 (c) living with a legal custodian or legal guardian who can attest that the child or the

57 child's household is receiving services benefiting low-income households or individuals.

58 (7) "Employer cooperative" means three or more private employers who have entered

59 into a formal agreement to share resources.

60 (8) "Employer sponsor" means a private, for-profit entity that leases an expanded child  
61 care capacity facility.

62 (9) "Expanded child care opportunity facility" means a building:

63 (a) that is state-owned;

64 (b) that has been retrofitted to meet the licensing requirements for child care

65 established by the Department of Health and Human Services; and

66 (c) in which one or more licensed providers may operate a private child care business  
67 pursuant to a contract with an employer sponsor.

68 (10) "Licensed child care provider" means a person who holds a license from the  
69 Department of Health and Human Services to provide center based child care, whether in a  
70 for-profit or non-profit model.

71 (11) "Program" means the employer-based, state assisted child care capacity expansion  
72 program described in Section [63N-22-102](#).

73 (12) "Young child" means a child six years old or younger.

74 Section 2. Section **63N-22-102** is enacted to read:

75 **63N-22-102. Employer-based, state-assisted child care capacity expansion**  
76 **program created.**

77 (1) There is created an employer-based, state-assisted child care capacity expansion program  
78 as described in this chapter.

79 (2) The goal of the employer-based, state-assisted child care capacity expansion  
80 program is to:

81 (a) expand the state's supply of high quality and affordable child care seats;

82 (b) support employers seeking to secure a reliable workforce;

83 (c) support the economic prospects of parents of young children in the workforce;

84 (d) promote economic growth; and

85 (e) utilize obsolete state property.

86 Section 3. Section **63N-22-103** is enacted to read:

87 **63N-22-103. Retrofitting state-owned buildings for center based child care.**

88 (1) The Division of Facilities Construction and Management and office shall partner  
89 to:

90 (a) identify an obsolete state-owned building suitable for retrofitting as an expanded  
91 child care opportunity facility;

92 (b) once an obsolete state-owned building is identified as suitable, establish a timeline  
93 by which the building may be retrofitted to serve as an expanded child care opportunity facility;

94 (c) identify state-owned property suitable for a new building to serve as an expanded  
95 child care opportunity facility;

96 (d) once state-owned property is identified as suitable, establish a timeline by which  
97 the expanded child care opportunity facility may be built; and

98 (e) within available funds, ensure the retrofitting process or building process results in  
99 an expanded child care opportunity facility that complies with licensing standards established  
100 by the Department of Health and Human Services.

101 (2) The Division of Facilities Construction and Management shall be responsible for  
102 ongoing maintenance of an expanded child care opportunity facility, as more fully detailed in a  
103 lease between the Division of Facilities Construction and Management and an employer  
104 sponsor described in Section [63N-22-104](#).

105 (3) Once an obsolete state-owned building has been successfully retrofitted to serve as  
106 an expanded child care opportunity facility, or an expanded child care opportunity facility has  
107 been built on state-owned property, the Department of Health and Human Services shall work  
108 with the Division of Facilities Construction and Management and the office to determine:

109 (a) the expanded child care opportunity expansion facility's maximum capacity limit;  
110 and

111 (b) if the expanded child care opportunity expansion facility is appropriate to house  
112 more than one licensed child care program.

113 Section 4. Section **63N-22-104** is enacted to read:

114 **63N-22-104. Leasing expanded child care opportunity facilities.**

115 (1) The office shall:

116 (a) identify a potential employer sponsor to lease an expanded child care opportunity  
117 facility; and

118 (b) recommend the Division of Facilities Construction and Management seek to enter  
119 into a lease with a potential employer sponsor at an expanded child care opportunity facility at  
120 no more than 80% of the market rate and no less than 50% based on the study described in

121 Subsection (3).

122 (2) If the office identifies more potential employer sponsors than there are available  
123 leasing opportunities, the office shall prioritize recommendations that the Division of Facilities  
124 Construction and Management enter into leases with employer sponsors that self-report:

125 (a) (i) having 50 or more employees; or

126 (ii) being part of an employer cooperative agreement; and

127 (b) having 25% or more of the employer sponsor's workforce made up of parents of  
128 young children.

129 (3) (a) The Division of Facilities Construction and Management shall conduct a market  
130 analysis to determine appropriate leasing rates for an expanded child care opportunity facility.

131 (b) The Division of Facilities Construction and Management may enter into a lease  
132 with an employer sponsor as described in this section.

133 (4) A lease authorized by this section shall, at a minimum, require:

134 (a) the employer sponsor utilize the leased space only for child care purposes;

135 (b) the employer sponsor to contract with a licensed provider to operate the center  
136 based child care at the leased space, as described in Section [63N-22-105](#);

137 (c) the employer sponsor to maintain general liability and workers compensation  
138 insurance in minimum amounts established by the Division of Facilities Construction and  
139 Management by rule;

140 (d) the employer sponsor to require a contracted licensed provider to maintain general  
141 liability and workers' compensation in minimum amounts established by the Division of  
142 Facilities Construction and Management by rule;

143 (e) that the employer sponsor reserve no more than 60% of capacity limit of the leased  
144 space for the children of employer sponsor employees and no less than 40% of capacity limit of  
145 the leased space for the children of community members;

146 (f) automatic relinquishment of the leased space in the event the employer sponsor fails  
147 to maintain a licensed provider operating in the leased space, as described in Section  
148 [63N-22-105](#), for a time period of more than 90 consecutive calendar days; and

149 (g) an employer sponsor that relinquishes leased space under Subsection (3)(f) to be  
150 responsible for all rent payments up until the date of relinquishment.

151 (5) The Division of Facilities Construction and Management shall deposit lease

152 payments from an employer sponsor into the Employer-based, State-assisted Care Capacity  
153 Expansion Program Restricted Account created in Section [63N-22-201](#).

154 (6) Subject to appropriations from the Legislature, the office may offer an incentive to  
155 an employer sponsor that:

156 (a) offsets the cost of monthly rent of the expanded child care opportunity facility; and

157 (b) provides additional subsidies that may be offered by the employer sponsor to an  
158 employer sponsor employee to allow the employer sponsor employee to take advantage of seats  
159 in a licensed provider's program at the expanded child care opportunity facility.

160 (7) The Division of Facilities Construction and Management and the office shall make  
161 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to  
162 implement the provisions of this section.

163 Section 5. Section **63N-22-105** is enacted to read:

164 **63N-22-105. Contracts with licensed providers -- Expectations of licensed**  
165 **providers.**

166 (1) No later than 60 days after the day on which a lease between an employer sponsor  
167 and the Division of Facilities Construction and Management takes effect, the employer sponsor  
168 shall enter into a contract with a licensed provider for the licensed provider to operate a center  
169 based child care facility in the leased space.

170 (2) (a) The Division of Facilities Construction and Management, in consultation with  
171 the office, shall establish a contract template to be used between an employer sponsor and  
172 licensed provider.

173 (b) The employer sponsor and licensed provider may modify the template described in  
174 Subsection (2)(a) to meet specific needs, subject to the requirements of this section.

175 (3) The contract between the employer sponsor and licensed provider shall establish, at  
176 a minimum:

177 (a) the amount of tuition reduction for an employer sponsor employee, broken down by  
178 age of child receiving care;

179 (b) the number of overall spots set aside for employer sponsor employees;

180 (c) the expected hours of operation of the licensed provider;

181 (d) the insurance amounts that the licensed provider is required to maintain while  
182 conducting business in accordance with the contract;

183 (e) that the employer sponsor is providing the space and related utilities at the  
184 expanded child care opportunity facility free-of-charge to the licensed provider, to facilitate the  
185 licensed provider offering high quality child care to employees of the employer sponsor and  
186 community members;

187 (f) that a licensed provider at an expanded child care opportunity facility shall:

188 (i) no later than one year after the date the contract described in this section is effective,  
189 earn a rating of "building quality," "high quality," or "high quality plus" from the Department  
190 of Workforce Services, as described by Department of Workforce Services rule, and thereafter  
191 maintain that rating or better;

192 (ii) accept community member families who receive child care subsidy from the  
193 Department of Workforce Services, if space is available; and

194 (iii) maintain at least one infant room and one toddler room at the expanded child care  
195 opportunity facility; and

196 (g) that in the event the licensed provider has its license suspended or revoked by the  
197 Department of Health and Human Services, the contract shall be immediately terminated.

198 (4) The contracted licensed provider shall be responsible for collecting tuition,  
199 complying with licensing requirements, managing and compensating the licensed provider's  
200 employees, managing any potential waitlist of families hoping to secure a spot at the program,  
201 and all other child care provider business activities.

202 (5) The employer sponsor may not pass along any facility costs, whether rent or cost of  
203 utilities, to the licensed provider.

204 (6) The contracted license provider shall use the rent and utility cost-savings provided  
205 to the child care program to build quality care and better serve young children and their  
206 families, including:

207 (a) retaining and recruiting experienced and qualified staff members, either through  
208 compensation, benefits, or a combination of compensation and benefits; and

209 (b) offering nontraditional hours, including evening care or weekend care, if  
210 appropriate.

211 (7) The contracted licensed provider may not charge a community member tuition in  
212 excess of what the licensed provider charges at other child care programs that the licensed  
213 provider operates within a 50 mile radius of the expanded child care opportunity facility.

214 Section 6. Section 63N-22-106 is enacted to read:

215 **63N-22-106. Promotion of the employer-based, state-assisted child care capacity**  
216 **expansion program.**

217 (1) The office shall promote the program created in this chapter to the business  
218 community.

219 (2) The Department of Workforce Services shall promote the program created in this  
220 chapter to licensed child care providers, with particular outreach to licensed child care  
221 providers that have been rated "building quality," "high quality," or "high quality plus" by the  
222 Department of Workforce Services.

223 (3) Beginning January 1, 2025, the Department of Health and Human Services and the  
224 Department of Workforce Services shall collaborate to provide a list of high quality center  
225 based child care providers in the geographic region of an expanded child care opportunity  
226 facility to the Division of Facilities Construction and Management on a quarterly basis.

227 (4) The Division of Facilities Construction and Management shall provide the list  
228 described in Subsection (3) upon request to an employer sponsor seeking a licensed provider  
229 with whom the employer sponsor may contract, as described in Section 63N-22-105.

230 Section 7. Section 63N-22-107 is enacted to read:

231 **63N-22-107. Limitation on liability.**

232 (1) Nothing in this chapter creates an employer-employee relationship between the  
233 state or any department of the state and an employer sponsor or a licensed provider.

234 (2) The state is not liable for any civil damages for acts or omissions resulting from the  
235 operations of an expanded child care opportunity facility.

236 Section 8. Section 63N-22-201 is enacted to read:

237 **Part 2. Funding and Reporting**

238 **63N-22-201. Creation of Employer-based, State-assisted Child Care Capacity**  
239 **Expansion Program Restricted Account -- Uses.**

240 (1) There is created a restricted account within the General Fund known as the  
241 Employer-based, State-assisted Child Care Capacity Expansion Program Restricted Account.

242 (2) The account consists of:

243 (a) money deposited into the account, as required by Section 63N-22-104; and

244 (b) appropriations made by the Legislature.



245 (3) The Legislature may annually appropriate money from the Employer-based,  
246 State-assisted Child Care Capacity Expansion Program Restricted Account to fund incentives,  
247 as described in Subsection [63N-22-104](#)(6).

248 Section 9. Section **63N-22-202** is enacted to read:

249 **63N-22-202. Stakeholder engagement -- Outreach to political subdivisions.**

250 (1) The office shall seek to solicit feedback and evaluate the program created in this  
251 chapter:

252 (a) by August 31, 2024; and

253 (b) on an annual basis.

254 (2) As part of soliciting feedback and evaluating the program, the office shall engage,  
255 at a minimum:

256 (a) a child care advocacy or early childhood advocacy group;

257 (b) an association representing the interests of licensed child care providers; and

258 (c) an association promoting economic development in the state.

259 (3) The office shall engage in outreach to political subdivisions that may have obsolete,  
260 publicly owned property appropriate for retrofitting as an expanded child care opportunity  
261 facility.

262 Section 10. Section **63N-22-203** is enacted to read:

263 **63N-22-203. Report.**

264 (1) The office shall provide, by October 1 of each year, a report to the Economic  
265 Development and Workforce Services Interim Committee, the Health and Human Services  
266 Interim Committee, and the Government Operations Interim Committee on the following:

267 (a) the progress and status of identifying obsolete state buildings for potential  
268 retrofitting;

269 (b) the progress and status of retrofitting state buildings into expanded child care  
270 opportunity facilities;

271 (c) the number of leases with employer sponsors;

272 (d) the amount of money from lease payments deposited into the Employer-based,  
273 State-assisted Child Care Capacity Expansion Program Restricted Account created in Section  
274 [63N-22-201](#);

275 (e) the number of children and families served at expanded child care opportunity

276 facilities;

277 (f) the number of child care spots created by the program established in this chapter;

278 (g) the demand in the business community, if any, to participate in the program;

279 (h) the demand by political subdivisions, if any, to participate in the program or create

280 a similar program;

281 (i) the projected economic growth created by the program; and

282 (j) the program's progress at achieving the goals described in Section [63N-22-102](#).

283 (2) In addition to the report described in Subsection (1), beginning January 1, 2025, the

284 office shall report on:

285 (a) a proposed plan to implement a sliding fee scale to allow economically  
286 disadvantaged children living with community member families to secure child care through  
287 the program while ensuring the continued economic viability of contracted licensed providers;

288 and

289 (b) any recommended funding mechanisms to implement the sliding fee scale  
290 described in Subsection (2)(a).

291 (3) The Division of Facilities Construction and Management, Department of  
292 Workforce Services, and Department of Health and Human Services shall assist the office in  
293 the creation of the reports described in Subsections (1) and (2).

294 **Section 11. Effective date.**

295 This bill takes effect on May 1, 2024.