

SB0176S01 compared with SB0176

~~{deleted text}~~ shows text that was in SB0176 but was deleted in SB0176S01.

inserted text shows text that was not in SB0176 but was inserted into SB0176S01.

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Senator Luz Escamilla proposes the following substitute bill:

CHILD CARE SERVICES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{}~~Luz Escamilla

House Sponsor: ~~{}~~_____

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:

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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

63N-22-104, Utah Code Annotated 1953

63N-22-105, Utah Code Annotated 1953

63N-22-106, Utah Code Annotated 1953

63N-22-107, Utah Code Annotated 1953

63N-22-201, Utah Code Annotated 1953

~~{ 63N-22-202, Utah Code Annotated 1953~~

~~63N-22-203, Utah Code Annotated 1953~~

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

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

CHAPTER 22. CHILD CARE CAPACITY EXPANSION ACT

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

63N-22-101. Definitions.

As used in this chapter:

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

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

26B-2-401.

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

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

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

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

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

facility; ~~or~~

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(c) is a state employee~~{,}~~;

(d) is a member of the national guard; or

(e) is a member of the armed forces as defined in Section 68-3-12.5.

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

(a) experiencing intergenerational poverty;

(b) a member or foster child of a family with an annual income at or below 200% federal poverty level; or

(c) living with a legal custodian or legal guardian who can attest that the child or the child's household is receiving services ~~{benefiting}~~ benefitting low-income households or individuals.

(7) "Employer cooperative" means three or more private employers who have entered into a formal agreement to share resources.

(8) "Employer sponsor" means a private, for-profit entity that leases an expanded child care capacity facility from the state at no cost.

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

(a) that is state-owned;

(b) that has been retrofitted to meet the licensing requirements for child care established by the Department of Health and Human Services; and

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

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

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

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

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

63N-22-102. ~~{ Employer-based }~~

Employer-based, state-assisted child care capacity expansion program created.

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

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

- (a) expand the state's supply of high quality and affordable child care seats;
- (b) support employers seeking to secure a reliable workforce;
- (c) support the economic prospects of parents of young children in the workforce;
- (d) promote economic growth; and
- (e) utilize obsolete state property.

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

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

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

- (a) identify an obsolete state-owned building suitable for retrofitting as an expanded child care opportunity facility;
- (b) once an obsolete state-owned building is identified as suitable, establish a timeline by which the building may be retrofitted to serve as an expanded child care opportunity facility;
- (c) identify state-owned property suitable for a new building to serve as an expanded child care opportunity facility;
- (d) once state-owned property is identified as suitable, establish a timeline by which the expanded child care opportunity facility may be built; and
- (e) within available funds, ensure the retrofitting process or building process results in an expanded child care opportunity facility that complies with licensing standards established by the Department of Health and Human Services.

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

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

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

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and

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

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

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

(1) The office shall:

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

(b) recommend the Division of Facilities Construction and Management seek to enter into a lease with a potential employer sponsor at an expanded child care opportunity facility ~~at no more than 80% of the market rate and no less than 50% based on the study described in Subsection (3)~~.

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

(a) (i) that self-report ~~f~~:

~~— (a) (i) } having 50 or more employees; or~~

(ii) ~~that self-report~~ being part of an employer cooperative agreement ~~f; and~~ ~~with a minimum of 50 employees collectively;~~

(b) ~~that self-report~~ having 25% or more of the employer sponsor's workforce made up of parents of young children ~~f~~.

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

~~— (b); and~~

(c) ~~with a proposal to reduce the cost of child care tuition to employer employees and community members.~~

(3) The Division of Facilities Construction and Management may enter into a ~~no-cost~~ lease with an employer sponsor as described in this section.

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

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

(b) the employer sponsor to contract with a licensed provider to operate the center

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based child care at the leased space, as described in Section 63N-22-105;

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

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

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

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

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

~~(5) The} a provision to ensure that the cost savings incurred by the no-cost lease and the Division of Facilities Construction and Management {shall deposit lease payments from an employer sponsor into the Employer-based, State-assisted Care Capacity Expansion Program Restricted Account created in Section 63N-22-201.~~

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

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

~~(b) provides additional subsidies that may be offered by the employer sponsor to an} maintaining the leased property:~~

~~(i) result in reduced tuition for employer sponsor {employee to allow the employer sponsor employee to take advantage of seats in a licensed provider's program at the expanded child care opportunity facility.~~

~~(7} employees and community members at the center based child care in the leased space; and~~

~~(ii) facilitate in whole or in part, over time, the implementation of a sliding fee scale proposed by the office, as described in Subsection 63N-22-201(2).~~

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

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

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

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

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

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

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

(a) the amount of tuition reduction ~~{for an}~~ **guaranteed by the** employer sponsor ~~{employee}~~ **as described in Subsection 63N-22-104(4)(g)**, broken down by age of child receiving care;

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

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

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

(e) that the ~~{employer sponsor}~~ **state** is providing the space and related ~~{utilities}~~ **utility costs** at the expanded child care opportunity facility free-of-charge to the ~~{licensed provider, to facilitate}~~ **employer sponsor, and that the employer sponsor may not pass along any facility costs, whether rent or cost of utilities, to** the licensed provider ~~{ offering high quality child care to employees of the employer sponsor and community members };~~

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

(i) no later than one year after the date the contract described in this section is effective,

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earn a certified quality rating of "~~{building quality}~~ Building Quality," "~~{high quality}~~ High Quality," or "~~{high quality plus}~~ High Quality Plus" in the Child Care Quality System from the Department of Workforce Services, as described by Department of Workforce Services rule, and thereafter maintain that rating or better;

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

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

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

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

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

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

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

~~— (b) offering nontraditional hours, including evening care or weekend care, if appropriate.~~

~~— (7) The~~ In addition to the tuition reduction described in Subsection (3)(a), a contracted licensed provider may not charge ~~{a}~~ an employer sponsor employee or community member tuition in excess of what the licensed provider charges at other child care programs that the licensed provider operates within a 50 mile radius of the expanded child care opportunity facility.

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

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

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

(2) The Department of Workforce Services shall promote the program created in this chapter to licensed child care providers, with particular outreach to licensed child care providers that have been rated "~~{building quality}~~Building Quality," "~~{high quality}~~High Quality," or "~~{high quality plus}~~High Quality Plus" in the Child Care Quality System by the Department of Workforce Services.

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

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

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

63N-22-107. Limitation on liability.

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

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

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

Part 2. ~~{Funding and}~~Reporting

63N-22-201. ~~{ Creation of Employer-based, State-assisted Child Care Capacity Expansion Program Restricted Account -- Uses:~~

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

~~———— (2) The account consists of:~~

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

~~———— (b) appropriations made by the Legislature.~~

~~———— (3) The Legislature may annually appropriate money from the Employer-based,~~

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~~State-assisted Child Care Capacity Expansion Program Restricted Account to fund incentives, as described in Subsection 63N-22-104(6):~~

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

~~63N-22-202. Stakeholder engagement -- Outreach to political subdivisions:~~

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

~~(a) by August 31, 2024; and~~

~~(b) on an annual basis.~~

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

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

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

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

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

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

~~63N-22-203.} Report.~~

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

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

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

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

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

~~} (f) the number of children and families served at expanded child care opportunity facilities;~~

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

(f)f the demand in the business community, ~~if any,~~ to participate in the program;

(f)g the demand by political subdivisions, if any, to participate in the program or create a similar program;

(f)h the projected economic growth created by the program; and

(f)i the program's progress at achieving the goals described in Section 63N-22-102.

(2) In addition to the report described in Subsection (1), beginning January 1, 2025, the office shall report on:

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

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

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

Section 9. **Effective date.**

This bill takes effect on May 1, 2024.