

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; 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



- 26 [63N-22-103](#), Utah Code Annotated 1953
- 27 [63N-22-104](#), Utah Code Annotated 1953
- 28 [63N-22-105](#), Utah Code Annotated 1953
- 29 [63N-22-106](#), Utah Code Annotated 1953
- 30 [63N-22-107](#), Utah Code Annotated 1953
- 31 [63N-22-201](#), Utah Code Annotated 1953

32

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

34 Section 1. Section [63N-22-101](#) is enacted to read:

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

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

37 **63N-22-101. Definitions.**

38 As used in this chapter:

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

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

41 [26B-2-401](#).

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

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

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

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

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

47 facility;

48 (c) is a state employee;

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

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

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

52 (a) experiencing intergenerational poverty;

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

54 federal poverty level; or

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

56 child's household is receiving services benefitting low-income households or individuals.

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

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

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

62 (a) that is state-owned;

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

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

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

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

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

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

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

74 **63N-22-102.**

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

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

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

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

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

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

83 (d) promote economic growth; and

84 (e) utilize obsolete state property.

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

86 **63N-22-103. Retrofitting state-owned buildings for center based child care.**

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

88 to:

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

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

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

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

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

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

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

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

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

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

113 **63N-22-104. Leasing expanded child care opportunity facilities.**

114 (1) The office shall:

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

117 (b) recommend the Division of Facilities Construction and Management seek to enter
118 into a lease with a potential employer sponsor at an expanded child care opportunity facility.

- 119 (2) If the office identifies more potential employer sponsors than there are available
120 leasing opportunities, the office shall prioritize recommendations that the Division of Facilities
121 Construction and Management enter into leases with employer sponsors:
- 122 (a) (i) that self-report having 50 or more employees; or
123 (ii) that self-report being part of an employer cooperative agreement with a minimum
124 of 50 employees collectively;
- 125 (b) that self-report having 25% or more of the employer sponsor's workforce made up
126 of parents of young children; and
- 127 (c) with a proposal to reduce the cost of child care tuition to employer employees and
128 community members.
- 129 (3) The Division of Facilities Construction and Management may enter into a no-cost
130 lease with an employer sponsor as described in this section.
- 131 (4) A lease authorized by this section shall, at a minimum, require:
- 132 (a) the employer sponsor utilize the leased space only for child care purposes;
133 (b) the employer sponsor to contract with a licensed provider to operate the center
134 based child care at the leased space, as described in Section [63N-22-105](#);
- 135 (c) the employer sponsor to maintain general liability and workers compensation
136 insurance in minimum amounts established by the Division of Facilities Construction and
137 Management by rule;
- 138 (d) the employer sponsor to require a contracted licensed provider to maintain general
139 liability and workers' compensation in minimum amounts established by the Division of
140 Facilities Construction and Management by rule;
- 141 (e) that the employer sponsor reserve no more than 60% of capacity limit of the leased
142 space for the children of employer sponsor employees and no less than 40% of capacity limit of
143 the leased space for the children of community members;
- 144 (f) automatic relinquishment of the leased space in the event the employer sponsor fails
145 to maintain a licensed provider operating in the leased space, as described in Section
146 [63N-22-105](#), for a time period of more than 90 consecutive calendar days; and
- 147 (g) a provision to ensure that the cost savings incurred by the no-cost lease and the
148 Division of Facilities Construction and Management maintaining the leased property:
- 149 (i) result in reduced tuition for employer sponsor employees and community members

150 at the center based child care in the leased space; and

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

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

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

157 **63N-22-105. Contracts with licensed providers -- Expectations of licensed**
158 **providers.**

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

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

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

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

170 (a) the amount of tuition reduction guaranteed by the employer sponsor as described in
171 Subsection 63N-22-104(4)(g), broken down by age of child receiving care;

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

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

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

176 (e) that the state is providing the space and related utility costs at the expanded child
177 care opportunity facility free-of-charge to the employer sponsor, and that the employer sponsor
178 may not pass along any facility costs, whether rent or cost of utilities, to the licensed provider;

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

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

181 earn a certified quality rating of "Building Quality," "High Quality," or "High Quality Plus" in
182 the Child Care Quality System from the Department of Workforce Services, as described by
183 Department of Workforce Services rule, and thereafter maintain that rating or better;

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

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

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

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

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

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

199 **63N-22-106. Promotion of the employer-based, state-assisted child care capacity**
200 **expansion program.**

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

203 (2) The Department of Workforce Services shall promote the program created in this
204 chapter to licensed child care providers, with particular outreach to licensed child care
205 providers that have been rated "Building Quality," "High Quality," or "High Quality Plus" in
206 the Child Care Quality System by the Department of Workforce Services.

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

211 (4) The Division of Facilities Construction and Management shall provide the list

212 described in Subsection (3) upon request to an employer sponsor seeking a licensed provider
213 with whom the employer sponsor may contract, as described in Section [63N-22-105](#).

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

215 **63N-22-107. Limitation on liability.**

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

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

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

221 **Part 2. Reporting**

222 **63N-22-201. Report.**

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

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

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

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

231 (d) the number of children and families served at expanded child care opportunity
232 facilities;

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

234 (f) the demand in the business community to participate in the program;

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

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

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

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

241 (a) a proposed plan to implement a sliding fee scale to allow economically
242 disadvantaged children living with community member families to secure child care through

243 the program while ensuring the continued economic viability of contracted licensed providers;
244 and

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

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

250 **Section 9. Effective date.**

251 This bill takes effect on May 1, 2024.