

ENROLLED ACT NO. 53, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2006 BUDGET SESSION

AN ACT relating to child caring facilities; providing for a quality child care system within the department of workforce services; providing criteria for the rating of child caring facilities, as specified; providing incentives for the professional development of child caring facility staff, as specified; creating a legislative oversight committee; requiring reports; granting rulemaking authority; providing for a grievance board; providing appropriations; providing for a task force; and providing for effective dates.

Be it Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-4-201 through 14-4-206 are created to read:

ARTICLE 2
QUALITY CHILD CARE

14-4-201. Quality child care system established.

(a) A quality child care system is created for the purpose of supplementing high quality care to children in licensed child caring facilities consisting of:

- (i) A quality rating system;
- (ii) Incentive payments for higher levels of quality care;
- (iii) Scholarships for professional development;
- (iv) Technical assistance and quality support.

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(b) The quality child care system shall also provide for a parental education and public awareness program.

(c) The department of workforce services is authorized to promulgate rules and regulations for the purpose of implementing this article. All rules and regulations shall be promulgated in consultation with the department of education, the department of family services, the department of health, University of Wyoming and early childhood specialists from the private sector.

(d) The state's responsibility for payments under this article shall be limited to the amount of funding provided for the quality child care system by the legislature. The department may receive donations from foundations or other private sources. Any such funds received shall be deposited into a separate account and are continuously appropriated to the department, which may distribute those funds in accordance with the provisions of this article. Services eligible to be paid for by another public program shall not be reimbursed under this article.

(e) Infants and preschool children served under this article who qualify for disability services shall receive those services through a regional developmental preschool that is supported by state funding for this purpose, provided the parents or caretakers agree to those services. The cost of these services shall not be reimbursed by payments made to providers under this article.

(f) In the delivery of services, facilities that receive funds under this article shall not discriminate against any individual on the basis of sex, color, race, religion, national origin, disability or age other than the age of the qualifying child. Notwithstanding this subsection, facilities shall retain the ability to refer

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developmentally disabled children to regional developmental preschools supported by state funding.

(g) Upon approval of the application for funds as provided in this article, the facility shall enter into a contract with the state, wherein the facility shall agree:

(i) To provide child care services in this state for a minimum of one (1) year;

(ii) To serve children from families eligible for support for child care under programs, other than the program created by this article, managed by the department;

(iii) To submit the reports required by W.S. 14-4-203(d) and to submit information as required in the department's rules and regulations; and

(iv) To immediately repay all funds provided to the facility pursuant to this article, attorney fees and costs incurred in collection, if the facility breaches the contract during the one (1) year period.

(h) The department of workforce services shall structure its contracts with facilities to ensure necessary data is reported uniformly. The contracts shall specify what services will be provided under the contract and the outcome measures to be achieved to allow the department to determine compliance with contract provisions, the services provided, the outcomes achieved and to determine the extent of statewide needs based on the reports received.

(j) The task force created pursuant to paragraph (m)(iii) of this section shall develop an outcomes measurement and data infrastructure system for purposes of performance measurement and quality improvement of services

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provided by facilities under contract with the department to address statewide planning for quality improvement and increased availability of child care facilities.

(k) The department, in rating facilities for quality and making payments to facilities pursuant to this article, shall not discriminate against any facility due to religious orientation, affiliation or instruction or the lack thereof. No state funds shall be used for materials for religious instruction, salaries and benefits for staff primarily engaged in religious instruction, or for any other incremental cost of religious instruction or observances. Any facility receiving state funds shall be prepared to demonstrate, if audited, that sufficient nongovernmental funds were available to cover all expenses of religious instruction or observance.

(m) For purposes of this article:

(i) "Department" means the department of workforce services;

(ii) "Facility" means child caring facility as defined in W.S. 14-4-101(a)(vi)(D) and (K);

(iii) "Task force" means a joint task force of employees of the department of workforce services and department of family services appointed by the governor.

14-4-202. Quality rating system.

(a) The department shall establish by rule and regulation a process for evaluating and rating the quality of facilities.

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(b) Any facility as defined in W.S. 14-4-201(m) serving three (3) or more children, any other facility including preschools and developmental preschools, and facilities that are exempt from licensing under W.S. 14-4-101, but which choose voluntarily to become licensed, may apply to the department to be evaluated and rated.

(c) There shall be five (5) levels of quality. Any facility meeting the requirements of W.S. 14-4-101 through 14-4-116 for licensing shall be deemed to be at level one (1). Progression above level one (1) is voluntary. The criteria to assess levels of quality shall be based upon best practices as defined by rule and regulation of the department and shall include but not be limited to:

(i) The learning environment, including a developmentally appropriate curriculum and support for positive cognitive and social development;

(ii) The establishment of child to staff ratios which are applicable to various age groups of children served;

(iii) Procedures and training to assure quality of facility services;

(iv) Staff qualifications and education, including certification or endorsement in early childhood education;

(v) Policies and practices that encourage family and community involvement in the facility's program;

(vi) Provision of information and training on activities that parents and caretakers can pursue at home which promote learning and development; and

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(vii) Linkages with other community resources for the purpose of resource and referral including, but not limited to:

(A) Programs that provide health care and health care coverage;

(B) Programs that offer educational and workforce training services;

(C) Programs that offer counseling for children and parents or caretakers of the children being served under this article;

(D) Public health nurse infant home visitation program; and

(E) Developmental preschools as defined in W.S. 21-2-701.

14-4-203. Quality incentive payments.

(a) In consideration of the facility providing quality care to children as described in this article and using established best practices, the department may provide monthly quality incentive payments to the facility participating voluntarily in the quality rating system and achieving a rating of level two (2) or higher. The calculation of the payment for quality services shall be based on a sliding fee scale which shall consider equally the percentage of at risk children served by a provider, the quality level the provider has achieved and the volume of business at each provider.

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(b) For purposes of this section, children are considered at risk if they meet one (1) or more of the following criteria:

(i) The child has physical, cognitive, social or emotional disabilities or delays in development;

(ii) The household's income is below a percentage of the federal poverty level determined by the task force;

(iii) The child's primary caretaker is a single parent;

(iv) The child is being raised by someone other than the parent or adoptive parent;

(v) At least one (1) parent of the child has been convicted of a felony;

(vi) At least one (1) parent of the child has a history of drug or alcohol abuse;

(vii) The child was born to a minor parent;

(viii) The mother of the child failed to complete high school or obtain a general educational development certificate.

(c) Quality incentive payments under this section shall be paid for each eligible licensed child care slot and shall not exceed fifty percent (50%) of the current statewide market rate for child care as established by the market rate survey required to be conducted by the department under the provisions of 45 C.F.R. 98.43 of the code of federal regulations.

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(d) Facilities receiving payments pursuant to this section shall report monthly to the department the total number of children served and the total number of at-risk children served during that month and the outcome measures achieved. At least annually, the facility shall file a report which includes evidence that the facility's quality rating criteria have been maintained, the outcome measures achieved, an itemization of how the funds were used, the results obtained and the impact of the funds on the children and families served by the facility.

14-4-204. Professional development incentives.

(a) The department by rule and regulation shall establish incentives to encourage the staff of participating facilities to attain certificates or degrees in early childhood development or a related field. These incentives may include scholarships and salary enhancements. Payments under this section shall be conditioned upon:

(i) The recipient of the incentive entering into a written agreement to work for the participating facility for at least one (1) year after receiving the certificate or degree; and

(ii) An in-cash cost sharing contribution of at least ten percent (10%) from the facility employing the staff member, which may include financial assistance to the staff member in attaining the certificate or degree, or increased wages or benefits after acquiring the certificate or degree.

(b) A recipient of an incentive payment pursuant to this section shall immediately repay all funds provided to

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the recipient pursuant to this article, together with attorney fees and costs incurred in collection, if the recipient breaches the contract required by paragraph (a)(i) of this section.

14-4-205. Technical assistance and quality support.

(a) Quality support payments may be made available to facilities through a competitive process to provide quality care for infants or other children whose care may otherwise be difficult to obtain in the community. Grants shall be awarded as follows:

(i) Repayment shall be required if the facility closes the business within one (1) year after receiving the grant or if the facility fails to comply with any provision of the grant;

(ii) Grant requests for increasing capacity shall only be awarded to existing licensed facilities that are at a quality level of three (3) or higher in the quality rating system;

(iii) Quality support grants shall not be used for capital construction or purchase of land or buildings;

(iv) Grants to any one (1) facility shall not exceed three thousand dollars (\$3,000.00) per child.

(b) The department of family services and department of workforce services shall provide technical assistance to facilities on best practices for management of child caring facilities.

14-4-206. Parental education and public awareness.

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(a) The department shall develop and distribute materials to:

(i) Promote knowledge of the quality child care system;

(ii) Promote an understanding of the benefits that accrue to children, families and communities from quality child care programs, as based upon the latest findings in research reports and studies;

(iii) Promote the advantages of parents personally providing care for their own children whenever possible;

(iv) Promote parent involvement in their child's development and provide information and activities to parents or caretakers to promote early childhood learning and development at home; and

(v) Emphasize the importance of parental responsibility and the involvement of the family in quality early childhood development.

Section 2.

(a) There is created a legislative oversight committee to oversee the progress of the department of workforce services on implementing the provisions of this act. The committee shall consist of:

(i) Four (4) members of the Wyoming senate, appointed by the president of the senate. No more than three (3) members shall be from the same political party. The president of the senate shall appoint a co-chairman of the committee;

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(ii) Four (4) members of the Wyoming house of representatives, appointed by the speaker of the house of representatives. No more than three (3) members shall be from the same political party. The speaker of the house of representatives shall appoint a co-chairman of the committee.

(b) The oversight committee shall provide oversight of the department's work toward implementing the quality child care program provided under this act. The committee shall oversee an initial assessment by a joint task force of the department of family services and the department of workforce services, created under W.S. 14-4-201(m)(iii), of the quality and quantity of child care needs in the various communities of the state. The committee shall report the assessment and its recommendation to the joint labor, health and social services interim committee by November 1, 2006. The department of workforce services, before entering into any contract with a facility or making any payments to facilities as provided in W.S. 14-3-203 through 14-3-205, shall consider the results of the needs assessment as reported by the committee.

(c) The oversight committee shall also research and review other means of implementing a quality child care system than the one described in W.S. 14-4-203 through 14-4-206, including the feasibility of offering a voucher system in which state payments are made directly to parents for the purchase of quality child care in Wyoming communities. The oversight committee shall address training programs that reward facilities on different levels of child care training, including nationally recognized training. Among the questions to be considered are the constitutionality of the proposal, the practicality

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of implementation and factors that will respect the privacy of Wyoming families.

(d) The oversight committee shall meet at least quarterly to receive progress reports from the department and consider future legislation necessary to facilitate speedy implementation of the quality child care program provided under this act. The department shall recommend to the committee specific and readily calculable formulae for expenditures under this act, including but not limited to the monthly quality incentive payments to eligible quality child care facilities.

(e) The oversight committee shall report its findings and recommendations to the joint appropriations committee and the joint labor, health and human services interim committee no later than November 15, 2006.

(f) There is appropriated to the legislative service office from the general fund sixteen thousand dollars (\$16,000.00) for funding the oversight committee under this section for the period from April 1, 2006 through June 30, 2007.

Section 3.

(a) The department of workforce services shall report annually to the joint education interim committee, the joint labor, health and social services interim committee and the joint appropriations interim committee by October 1 and to the oversight committee created in Section 2 of this act quarterly. The report shall include:

(i) The department's progress in establishing the system under this act;

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(ii) The participating child care facilities and their ratings;

(iii) Information that demonstrates the impacts of the services provided by the system on children, families and communities and how the department plans to measure these impacts;

(iv) Public awareness activities;

(v) The collaborative efforts of the departments of education, family services, health, workforce services and others to provide comprehensive early childhood development and preschool experiences for children while meeting the needs of Wyoming's workforce and economic development;

(vi) System expenditures of public and private funds; and

(vii) Recommendations for changes in the system's operation.

(b) Upon implementation of the child care facilities rating system, the department shall establish a grievance board to hear public comments on the quality child care system and shall provide a convenient system for citizens to file grievances. The task force shall recommend parameters for the operation of the grievance board. A report of all comments regarding the quality child care system and the action taken, if any, by the department in response to those comments shall be included in the department's annual report to the oversight committee.

Section 4.

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(a) Seven million three hundred eighty-one thousand four hundred seventy-three dollars (\$7,381,473.00) is appropriated from the general fund to the department of workforce services for the purposes of this act.

(b) Of the general fund appropriation in subsection (a) of this section, one million three hundred eighty-one thousand four hundred seventy-three dollars (\$1,381,473.00) shall be used for purposes of implementing W.S. 14-4-202 created by this act.

(c) Of the general fund appropriation in subsection (a) of this section, six million dollars (\$6,000,000.00) shall only be expended after further legislative action by the 59th Legislature and the department shall not enter into any contract obligating any of these funds under W.S. 14-4-201, 14-4-203, 14-4-204 or 14-4-205 created by this act without future legislative action.

Section 5.

(a) W.S. 14-4-201(a), (b) and (c) and 14-4-202(a) created by this act, Section 2 and Section 4(a) and (b) of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

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(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2006.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk