

IN THE SENATE

SENATE BILL NO. 1374

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO CHILD CARE PROGRAM; AMENDING TITLE 56, IDAHO CODE, BY
2 THE ADDITION OF A NEW CHAPTER 25, TITLE 56, IDAHO CODE, TO DEFINE TERMS,
3 TO PROVIDE FOR THE CREATION OF THE IDAHO CHILD CARE PROGRAM, TO ESTAB-
4 LISH PROVISIONS REGARDING PARENT QUALIFYING ACTIVITIES, TO ESTABLISH
5 PROVISIONS REGARDING APPLICATION, ELIGIBILITY, AND REDETERMINATION,
6 TO PROVIDE AUTHORITY TO CREATE A WAITING LIST AND ADJUST ELIGIBIL-
7 ITY, TO ESTABLISH PROVISIONS REGARDING REQUIREMENTS FOR PROVIDERS, TO
8 ESTABLISH PROVISIONS REGARDING PROGRAM INTEGRITY, TO ESTABLISH PROVI-
9 SIONS REGARDING PROGRAM OVERSIGHT, TO ESTABLISH PROVISIONS REGARDING
10 A PROGRAM VENDOR, TO ESTABLISH PROVISIONS REGARDING CONSTRUCTION, TO
11 ESTABLISH PROVISIONS REGARDING AUTHORITY OF THE ATTORNEY GENERAL, TO
12 ESTABLISH PROVISIONS REGARDING THE STATE PLAN AND LEGISLATIVE APPROVAL
13 REQUIREMENTS, AND TO ESTABLISH PROVISIONS REGARDING THE USE OF FUNDS
14 FOR CAPACITY BUILDING; AMENDING SECTION 39-1111, IDAHO CODE, TO REVISE
15 PROVISIONS REGARDING ADMINISTRATIVE RULES; AND DECLARING AN EMERGENCY.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
20 ter 25, Title 56, Idaho Code, and to read as follows:

21 CHAPTER 25
22 IDAHO CHILD CARE PROGRAM

23 56-2501. DEFINITIONS. As used in this chapter:
24 (1) "CCMS" means a child care management solution.
25 (2) "Child care" means care, control, supervision, or maintenance of a
26 child provided for compensation by an individual, other than a parent of the
27 child, for less than twenty-four (24) hours in a day.
28 (3) "Child care finder" means a child care search tool.
29 (4) "Department" means the Idaho department of health and welfare.
30 (5) "Eligible child" means a child under thirteen (13) years of age who
31 is either a citizen of or lawfully living in the United States. However, a
32 child who is thirteen (13) years of age or older remains eligible if the child
33 is under court supervision or is verified by either a mental health profes-
34 sional or licensed medical professional to be physically or mentally unable
35 to care for himself.
36 (6) "FPG" means the federal poverty guidelines published annually by
37 the United States department of health and human services.
38 (7) "Fraud detection and remediation system" means a software platform
39 utilizing statistical modeling, predictive analytics, and machine learning
40 techniques to assess the likelihood of fraud, waste, or abuse.

1 (8) "Intentional program violation" means an intentionally false or
2 misleading action or statement that is one (1) of the following:

3 (a) An individual makes a false or misleading statement to the depart-
4 ment, either orally or in writing, in order to participate in the pro-
5 gram;

6 (b) An individual misrepresents or conceals one (1) or more facts to the
7 department, either orally or in writing, to participate in the program;

8 (c) An individual fails repeatedly or substantially to comply with rel-
9 evant state or federal laws or rules promulgated under this chapter;

10 (d) An individual knowingly violates any term of the individual's
11 provider agreement; or

12 (e) A provider knowingly fails to meet the qualifications specifically
13 required in relevant federal law, in this chapter, in chapter 11, title
14 39, Idaho Code, or the rules promulgated under any of the forgoing laws.

15 (9) "License management" means a child care license management system
16 for the department to process licensing applications for new and existing
17 providers.

18 (10) "Parent" means a person responsible for a child because of birth,
19 adoption, marriage, legal guardianship, or foster care.

20 (11) "Program" means the Idaho child care program.

21 (12) "Provider" means an individual, organization, agency, or other en-
22 tity providing child care.

23 (13) "SMI" means the current state median income estimates determined
24 for the low income home energy assistance program.

25 (14) "Subsidy management" means a child care subsidy management system
26 for the department's processing of subsidy funding on behalf of eligible
27 children to providers.

28 (15) "Vendor" means a third-party vendor that will provide child care
29 technology solutions or create new family child care programs that shall be
30 procured via an existing competitively bid contract with the state.

31 56-2502. CREATION OF PROGRAM. There is hereby created in the depart-
32 ment the Idaho child care program, which, subject to legislative appropri-
33 ation, shall use federal child care funds distributed to the states, as well
34 as any related state matching funds and maintenance-of-effort funds, to im-
35 prove the quality of child care in Idaho for all children and assist low-
36 income families in Idaho who are working or participating in education or
37 training activities with help paying for child care. The department shall
38 administer the program in a manner consistent with this chapter and with all
39 applicable federal requirements.

40 56-2503. PARENT QUALIFYING ACTIVITIES. (1) Parents in a child's
41 household must participate in one (1) of the following qualifying activities
42 to be eligible for assistance under this chapter:

43 (a) The parent is currently employed or self-employed;

44 (b) The parent is currently attending an accredited education or train-
45 ing program; or

46 (c) The parent is receiving child welfare preventative services from
47 the department.

1 (2) The following restrictions shall apply to training or education ac-
2 tivities:

3 (a) Online classes shall not be counted as a qualifying activity under
4 this chapter;

5 (b) Persons who are attending postbaccalaureate classes with no other
6 qualifying activity shall not qualify for assistance under this chap-
7 ter; and

8 (c) No more than forty-eight (48) months of postsecondary education
9 shall count as a qualifying activity.

10 56-2504. APPLICATION -- ELIGIBILITY -- REDETERMINATION. (1) A family
11 who lives within the state of Idaho with no immediate intention of leaving
12 the state may apply to be considered for assistance under this chapter for an
13 eligible child.

14 (2) An applicant's family assets cannot exceed one million dollars
15 (\$1,000,000).

16 (3) When applying, a family's income cannot exceed one hundred fifty-
17 five percent (155%) of FPG for a family of the same size.

18 (4) During the eligibility period, a family's income cannot exceed
19 eighty-five percent (85%) of the SMI for a family of the same size.

20 (5) At least every twelve (12) months, the department shall redeter-
21 mine eligibility for assistance under this chapter. At redetermination, if
22 a family's income exceeds one hundred fifty-five percent (155%) but is less
23 than one hundred seventy percent (170%) of FPG for a family of the same size,
24 the family may be eligible to receive a graduated phaseout of child care as-
25 sistance that is limited to up to twelve (12) months of assistance following
26 the completion of redetermination.

27 56-2505. AUTHORITY TO CREATE A WAITING LIST AND ADJUST ELIGIBIL-
28 ITY. (1) As necessary to administer the program, the department may estab-
29 lish a waiting list for the program. If the department establishes a waiting
30 list, the department shall give priority to the following categories:

31 (a) Families who are homeless;

32 (b) Families caring for a child with a disability;

33 (c) Foster families;

34 (d) Families receiving temporary assistance for needy families from
35 the department;

36 (e) Families receiving any child welfare preventative services from
37 the department designed to reduce or eliminate the need for out-of-home
38 placement of a child by the department; and

39 (f) Households where at least one (1) parent is nineteen (19) years of
40 age or younger.

41 (2) Notwithstanding the provisions of section 56-269, Idaho Code, the
42 department may, by administrative rule, subject to legislative approval,
43 adjust the asset cap, the FPG percentage cap, the SMI percentage cap, or
44 the length of graduated phaseout after determination, as long as any such
45 adjustments comply with federal law, do not exceed the statutory maximums
46 established in section 56-2504, Idaho Code, and do not cause the program to
47 exceed its appropriation.

1 56-2506. REQUIREMENTS FOR PROVIDERS. (1) Providers who receive assis-
2 tance on behalf of eligible children under this chapter shall enter into and
3 abide by the terms of a provider agreement with the department and shall gen-
4 erate documentation at the time of service sufficient to support the reim-
5 bursement for child care services. Providers are required to keep the fol-
6 lowing child care records:

7 (a) Proof of attendance each day with authentication of a parent,
8 guardian, or preapproved designee dropping off and retrieving each
9 child;

10 (b) Billing and receipts;

11 (c) Policies or manuals developed by the provider governing procedures
12 for billing, attendance, copayment collection, operating hours, and
13 signing a child into and out of child care;

14 (d) All rates, fees, and costs of any kind charged by the provider; and

15 (e) Any other related records required by the department.

16 (2) The department shall be permitted access at any time of business op-
17 erations to the child care facilities of a provider who is receiving assis-
18 tance on behalf of an eligible child and to monitor and inspect the facility.
19 The department shall be permitted to access, inspect, review, copy, or re-
20 move any child care records required by this chapter. A provider shall im-
21 mediately produce records or provide access upon request by the department.
22 Records required by this section shall be kept available by the child care
23 facility at all times for a minimum of three (3) years.

24 (3) Any business entity or individual providing child care who is re-
25 ceiving assistance on behalf of an eligible child under this chapter shall be
26 registered as a business entity with the Idaho secretary of state.

27 (4) A provider shall receive payment for assistance on behalf of an eli-
28 gible child only after substantiating child care attendance and documenting
29 legitimate services provided in a manner and on a cadence prescribed by the
30 department.

31 (5) A provider is prohibited from paying, directly or indirectly or
32 overtly or covertly, for an eligible child to attend the provider's child
33 care facility.

34 (6) Providers are responsible for ensuring families pay the determined
35 child care costs and may not waive these costs.

36 (7) Providers receiving assistance on behalf of an eligible child shall
37 not be considered employees of the department and shall not hold themselves
38 out as employees of the department by virtue of their participation in the
39 program.

40 56-2507. PROGRAM INTEGRITY. (1) When the department has reasonable
41 suspicion to believe that a provider seeks payment on behalf of an eligible
42 child in a manner contrary to state or federal law, the department is autho-
43 rized to immediately suspend payment and conduct an investigation. Reasons
44 to suspend payment include but are not limited to:

45 (a) Any claims for child care services for which the department has a
46 reasonable suspicion were not provided;

47 (b) Child care services not documented by the provider as required by
48 law or the provider agreement;

1 (c) Child care services provided contrary to state or federal law or the
2 provider agreement;

3 (d) Failure to maintain records or provide immediate access to records
4 as required by law;

5 (e) The department believes a provider is paying for an eligible child
6 to attend the provider's child care facility in violation of law or the
7 provider agreement; or

8 (f) The department has determined that an intentional program viola-
9 tion has occurred and has provided notice of this determination.

10 (2) If the department determines that an intentional program violation
11 has occurred, the department shall send written notice of the determination
12 to the family or provider stating the reasons for the determination. The
13 decision of the department may be appealed to the office of administrative
14 hearings within twenty-eight (28) days of the date of the issuance of the no-
15 tice to the family or provider. The department may continue any suspension
16 of payment for the duration of the administrative appeal.

17 (a) The office of administrative hearings shall, within twenty-eight
18 (28) days of receipt of the appeal, review the full record regarding the
19 department's decision and hold a hearing. After the hearing, the ad-
20 ministrative law judge shall submit a written recommendation to the de-
21 partment and the family or provider. The recommendation by the adminis-
22 trative law judge either to affirm or reverse the department's decision
23 shall be based on the full record of the department's decision and rel-
24 evant state and federal law. The recommendation by the administrative
25 law judge shall be in writing and accompanied by a reasoned opinion.

26 (b) Within twenty-eight (28) days following the issuance of the hear-
27 ing officer's written recommendation, the department shall either af-
28 firm or reverse its initial decision.

29 (c) If, upon reconsideration of its initial decision, the department:

30 (i) Affirms its initial decision, the family or provider may ap-
31 peal pursuant to chapter 52, title 67, Idaho Code; or

32 (ii) Reverses its initial decision, then there shall be no fur-
33 ther appeal and payments shall resume, including back payments.

34 (3) An intentional program violation is established when a family or
35 provider admits the violation in writing and waives any right to a hearing
36 or appeal pursuant to this section or when determined by the department pur-
37 suant to this section. The consequences the department may impose for fraud
38 or any established intentional program violations are as follows:

39 (a) Any family or provider who is established to have committed an in-
40 tentional program violation shall be ineligible for the program for no
41 less than one (1) year but up to a period of three (3) years, as deter-
42 mined by the department.

43 (b) Any family or provider who is established to have committed a second
44 intentional program violation shall be ineligible for the program for a
45 period of no less than two (2) years but up to a period of five (5) years,
46 as determined by the department.

47 (c) Any family or provider who is established to have committed a third
48 or subsequent intentional program violation shall be permanently inel-
49 igible for the program.

1 (4) When the department establishes an intentional program violation,
2 it shall verify that any other benefits an individual receives pursuant to
3 this title strictly conform with state and federal law.

4 (5) For a first violation of the provisions of this subsection, the
5 department may exercise the authority granted pursuant to section 56-209h,
6 Idaho Code, to terminate a provider agreement or otherwise deny provider
7 status for up to five (5) years. Any termination for a second or subsequent
8 violation shall be for a minimum period of five (5) years up to permanent
9 ineligibility for the program, in the discretion of the department. The
10 department may terminate provider status for any provider who:

11 (a) Submits a claim with knowledge the claim is incorrect;

12 (b) Submits a fraudulent claim;

13 (c) Knowingly makes a false statement or representation of material
14 facts in any document required to be maintained or submitted to the de-
15 partment;

16 (d) Fails repeatedly or substantially to comply with relevant federal
17 law, this chapter, or any rules promulgated under this chapter;

18 (e) Knowingly violates any material term or condition of the provider
19 agreement;

20 (f) Has failed to repay, or was a managing entity or had an ownership
21 or control interest in any entity that has failed to repay, any overpay-
22 ments or claims previously found to have been obtained contrary to rel-
23 evant federal law, this chapter or the rules promulgated thereunder, or
24 the provider agreement;

25 (g) Has been found, or was a managing employee in any entity that has
26 been found, to have engaged in fraudulent conduct or abusive conduct; or

27 (h) Fails to meet the qualifications specifically required in relevant
28 state or federal law, including chapter 11, title 39, Idaho Code, for
29 providers licensed pursuant to that chapter.

30 (6) The department may refuse to enter into a provider agreement when:

31 (a) The provider has been convicted of a felony offense;

32 (b) The provider has failed to repay the department moneys that had been
33 previously determined to have been owed to the department;

34 (c) The provider has a pending investigation for program fraud or
35 abuse;

36 (d) The provider was the managing employee, officer, or owner of an en-
37 tity whose provider agreement was terminated pursuant to subsection (5)
38 of this section; or

39 (e) The provider has a current exclusion from participation in federal
40 programs by the department of health and human services office of the
41 inspector general list of excluded individuals and entities.

42 (7) For any overpayment to a provider for assistance on behalf of an
43 eligible child, the department is authorized to recoup or recover the full
44 amount of overpayment. Interest shall accrue on overpayments at the statu-
45 tory rate established in section 28-22-104, Idaho Code, from the date of the
46 final determination of overpayment; provided, however, interest shall not
47 accrue on overpayments made due to department error. Any overpayment due to
48 family or provider error, intentional program violation, or fraud shall be
49 recovered in full.

1 (8) Department authorities provided pursuant to this section shall not
2 be construed to limit any other authorities available to the department in
3 other relevant state or federal law to prevent or respond to fraud, waste, or
4 abuse and ensure program integrity.

5 (9) The department is authorized to collaborate with local, state, and
6 federal law enforcement to ensure providers and families comply with state
7 and federal law and to aid in the prosecution of any criminal violations of
8 the law arising from the program.

9 (10) The department may promulgate administrative rules, subject to
10 legislative approval, to prevent fraud, waste, or abuse in the program and to
11 ensure program integrity.

12 56-2508. PROGRAM OVERSIGHT. (1) The department shall, for the pur-
13 poses of executing section 56-2507, Idaho Code, implement a fraud detection
14 and remediation system no later than July 1, 2027, that shall assist in
15 detecting, preventing, and deterring fraud, waste, and abuse in the Idaho
16 child care program.

17 (2) The system shall assess relative risk using statistical and expert-
18 defined analytical models to support the prioritization of cases for review
19 and investigation and to prevent fraudulent applications. The system shall
20 be capable of incorporating predictive analytics or machine learning tech-
21 niques that improve risk assessment over time based on reviewed cases and
22 documented outcomes, while remaining subject to agency oversight. If any
23 payments to a provider through the program are deemed improper due to error
24 and not suspected fraud, the department shall notify the provider for the
25 specific basis for suspension. The department shall provide the child care
26 program with technical assistance in addressing any reporting errors. The
27 analysis required by this subsection shall include, at a minimum, the fol-
28 lowing data domains:

- 29 (a) Enrollment and attendance patterns;
- 30 (b) Billing and reimbursement data;
- 31 (c) Provider profiles and ownership structures;
- 32 (d) Licensing status, inspection history, and compliance records;
- 33 (e) Family eligibility and redetermination data;
- 34 (f) Historical audit or investigation outcomes; and
- 35 (g) Cross-program or cross-agency data, as permitted by law.

36 (3) The system shall include functionality to support agency staff in
37 reviewing, investigating, documenting, and tracking the resolution of iden-
38 tified risks, including the ability to record findings, actions taken, and
39 outcomes. The system may also support the temporary suspension or pausing of
40 payments associated with identified cases or entities during the pendency of
41 an investigation, in accordance with agency policy and applicable law, and
42 subject to human review, approval, and oversight.

43 (4) The system shall track relevant data through technology platforms,
44 including but not limited to:

- 45 (a) CCMS, in order to monitor digitally or manually submitted atten-
46 dance records submitted by a parent upon drop off and pick up of an eli-
47 gible child;
- 48 (b) Child care finder, in order to incorporate publicly available
49 provider data, such as:

- 1 (i) Cost of service;
 2 (ii) Subsidy eligibility of program;
 3 (iii) Vacancies; and
 4 (iv) Hours of operation;
- 5 (c) Licensing management, in order to incorporate agency-accessible
 6 provider data, such as:
 7 (i) Licensed capacity; and
 8 (ii) Current violations; and
- 9 (d) Subsidy management, in order to incorporate agency-accessible data
 10 relevant to subsidy program payment processing and all provider-rele-
 11 vant data necessary for payment receipt, such as:
 12 (i) Total subsidy payment amount to provider;
 13 (ii) Overpayment tracking; and
 14 (iii) Historical tracking of subsidy receipts by provider.
- 15 (5) In the department's discretion, in order for the functionality of
 16 the fraud detection and remediation system, the department shall procure all
 17 required programs and services through a single vendor in order to support
 18 program integrity through technology modernization.
- 19 (6) For the purpose of executing this section, if any necessary exist-
 20 ing program or software platforms are not capable of tracking and sharing
 21 necessary information to enable program oversight, the department shall im-
 22 plement new technology solutions, including but not limited to:
 23 (a) CCMS or application programming interface with commercially avail-
 24 able CCMS;
 25 (b) Child care finder;
 26 (c) Licensing management;
 27 (d) Subsidy management; and
 28 (e) Any additional relevant technology management solutions.
- 29 (7) Any data collected or monitored in order to execute this section
 30 shall be done solely for program administration and integrity. No data shall
 31 be sold, shared, or used for unrelated enforcement purposes without express
 32 written consent from relevant parties. Any personally identifiable infor-
 33 mation shall be protected in accordance with federal law.
- 34 (8) Any and all detection through this system shall not be used to es-
 35 tablish guilt absent corroborating evidence reviewed and provided by the de-
 36 partment.
- 37 (9) Any new technology management solutions deemed necessary by the
 38 department shall be procured from a vendor, as defined in section 56-2501,
 39 Idaho Code.

40 56-2509. PROGRAM VENDOR. The department shall select a vendor that
 41 shall be responsible for creating up to six hundred (600) licensed child care
 42 programs. Such vendor shall have experience in deploying technology that
 43 does all of the following:
 44 (1) Facilitates the recruitment and support of prospective providers;
 45 (2) Supports providers in business planning and implementation; and
 46 (3) Demonstrates the ability to execute both in-person and virtual
 47 provider recruitment events in high-need areas.

1 56-2510. CONSTRUCTION. Nothing in this chapter shall be construed to
2 create a right or entitlement to any assistance or benefit to any child, par-
3 ent, family, or provider.

4 56-2511. AUTHORITY OF THE ATTORNEY GENERAL. When the department en-
5 gages the attorney general, he is authorized to exercise concurrent inves-
6 tigative and prosecutorial authority and responsibility with county prose-
7 cutors to:

8 (1) Prosecute persons for the violation of the criminal provisions of
9 chapter 2, title 56, Idaho Code, that involve or are directly related to this
10 program; and

11 (2) Prosecute persons for criminal offenses that are not defined in
12 chapter 2, title 56, Idaho Code, but that involve or are directly related to
13 this program.

14 56-2512. STATE PLAN -- LEGISLATIVE APPROVAL REQUIRED. (1) The depart-
15 ment shall submit a revised and updated state plan for the program, which
16 shall be consistent with the provisions of this chapter, by October 1, 2026.

17 (2) After the updated state plan is submitted pursuant to subsection
18 (1) of this section, the department shall not seek or implement a state plan
19 amendment for the program that would expand benefits to any additional indi-
20 viduals or class of individuals or would increase any net cost to the state
21 without first obtaining approval from the legislature. Such approval must
22 be provided in statute and, to be effective, must be listed in this chapter.

23 56-2513. USE OF FUNDS FOR CAPACITY BUILDING. Any appropriation to the
24 program for capacity building through contracted spots, grants, or sub-
25 grants shall give first priority to family child care, relative child care,
26 group child care, after-school child care, child care provided by a non-
27 profit corporation with a board of directors acting as fiduciary, or child
28 care services managed through vendors as defined in section 56-2501, Idaho
29 Code, and addressing child care for underserved populations as defined in
30 the state plan.

31 SECTION 2. That Section 39-1111, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 39-1111. RULES AUTHORIZED. In order to implement the provisions of
34 this chapter, the department, in addition to other duties imposed by law,
35 ~~is hereby authorized and directed through rulemaking may promulgate rules,~~
36 subject to legislative approval, to establish procedures necessary to im-
37 plement the provisions of this chapter including procedure for submission
38 of required certificates as provided in sections 39-1109 and 39-1110, Idaho
39 Code, and to conduct the criminal history check provided in section 39-1105,
40 Idaho Code. The rulemaking authority granted in this section shall be lim-
41 ited to the specific standards and procedures required by this chapter. ~~The~~
42 ~~department shall seek to move all necessary rules into this chapter by July~~
43 ~~1, 2026.~~

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.