

1991 Assembly Bill 1000

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1991 WISCONSIN ACT 275

AN ACT *to amend* 20.435 (6) (n), 20.435 (7) (o), 46.40 (4), 46.49, 46.98 (2m) (e), 46.98 (3) (c), 46.98 (4) (d), 46.98 (5) (b), 48.71 (1), 48.72, 48.76, 49.50 (6g), 49.50 (7) (e) 1, 49.50 (7) (e) 2, 49.50 (7c) (a), 49.50 (7j) (dm), 49.50 (7j) (e) and 49.50 (7m) (jj); and *to create* 20.435 (6) (jg), 20.435 (7) (ie), 46.40 (4) (c), 46.979, 46.98 (4) (e), 46.984, 46.986, 46.987, 48.655, 48.656, 48.657 and 48.715 of the statutes; and *to affect* 1991 Wisconsin Act 39, section 9125 (2j), **relating to:** the allocation of federal child care and development block grant funds, requiring the secretary of health and social services to appoint a committee to advise the department of health and social services regarding the expenditure of those funds, license sanctions for day care providers, parental access to day care facilities, a child care resource and referral service grant program, a child care start-up and expansion grant program, day care programs for the children of student parents, a child care staff retention grant program, a child care quality improvement grant program, contracts for child care training and technical assistance, training personnel of county departments of human services or social services in child care program administration, establishing quality standards for child care that are higher than the standards required for licensure or certification, establishing reimbursement rates or grants based on those higher quality standards, the rights of parents, guardians and legal custodians of children who are provided care and supervision in a group day care center, the reporting of certain day care information, providing a penalty, granting rule-making authority, providing an exemption from rule-making procedures and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (6) (jg) of the statutes is created to read:

20.435 (6) (jg) *State day care program operations.* All moneys transferred from sub. (7) (b) under s. 46.40 (4) (a) 1. for the purposes of providing day care services under s. 46.98 (3) in counties with unmet needs, for providing start-up and expansion grants for day care facilities under s. 46.986 and for providing training for day care providers. All moneys transferred from sub. (7) (b) under s. 46.40 (4) (a) 1. shall be allocated as determined by the department in the calendar year immediately following the transfer.

SECTION 2. 20.435 (6) (n) of the statutes is amended to read:

20.435 (6) (n) *Federal program operations.* See sub. (9) (n). All moneys transferred from sub. (7) (o) under s. 46.40 (4) (a) 2. for the purposes of providing day care services under s. 46.98 (3) in counties with unmet needs, for providing start-up ~~or improvement~~ and expansion grants for day care facilities under s. 46.986 and for providing training for day care providers. All moneys transferred from sub. (7) (o) under s. 46.40 (4) (a) 2. shall be allocated as determined by the department in the calendar year immediately following the transfer.

SECTION 3. 20.435 (7) (ie) of the statutes is created to read:

20.435 (7) (ie) *Child care start-up and expansion grant repayments.* All moneys received in repayment of child care start-up and expansion grants under s. 46.986 (3) to (5) to be used for child care quality improvement activities under s. 46.987 (2) to (4).

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SECTION 4. 20.435 (7) (o) of the statutes, as affected by 1991 Wisconsin Act 39, section 539e, is amended to read:

20.435 (7) (o) *Federal aid; community aids.* All federal moneys received in amounts pursuant to allocation plans developed by the department for the provision or purchase of services authorized under par. (b) and s. 46.70, all federal moneys received as child welfare funds under 42 USC 620 to 626 as limited under s. 48.985, all federal child care and development block grant funds received under 42 USC 9858 as that are allocated under s. 46.40 (4) (a) 2. for distribution under s. 46.98 (2) and as allocated under 1991 Wisconsin Act 39, section 9125 (2j), all federal moneys received as child care grants under 42 USC 603 (n) as allocated under s. 46.40 (4) (b) 2. and distributed under s. 46.98 (2g) and all amounts transferred from par. (md) for distribution under s. 49.52 (1) (d) as provided under s. 49.80 (3) (a). Disbursements from this appropriation may be made directly to counties for social and mental hygiene services under s. 46.03 (20) (b) or 46.031 or directly to counties in accordance with federal requirements for the disbursement of federal funds or directly to tribal governing bodies under s. 46.70. ~~The department shall, on December 31 of any year, transfer to sub. (6) (n) all of the funds allocated for day care services under s. 49.52 (1) (d), that are not spent or encumbered as of December 31 of any year by county departments under s. 46.215, 46.22 or 46.23.~~

SECTION 5. 46.40 (4) of the statutes, as affected by 1991 Wisconsin Acts 6 and 39, is amended to read:

46.40 (4) CHILD DAY CARE SERVICES. (a) 1. For distribution under s. 46.98 (2) for child day care services under s. 46.98 (3), the department shall allocate, from the appropriation under s. 20.435 (7) (b), not more than \$4,386,600 for the last 6 months of 1991, not more than \$9,057,700 for 1992 and not more than \$4,645,800 for the first 6 months of 1993. The department may transfer funds between this subdivision and par. (b) 1. as necessary to adjust the state match required for the federal child care grant moneys received under 42 USC 603 (n). The department shall, on December 31 of any year, transfer to the appropriation under s. 20.435 (6) (jg) all of the funds allocated for child day care services under this paragraph that are not spent or encumbered as of December 31 of any year by county departments under s. 46.215, 46.22 or 46.23.

2. For distribution under s. 46.98 (2) for child day care services under s. 46.98 (3), the department shall allocate, from the federal child care and development block grant funds received under 42 USC 9858 and appropriated under s. 20.435 (7) (o), not more than \$3,909,400 for the last 6 months of 1991, not more than \$8,315,700 for 1992 and not more than \$4,581,500 for the first 6 months of 1993. The department shall, on December 31 of any year, transfer to the appropriation under s. 20.435 (6) (n) all of the funds allocated for child day care ser-

vices under this paragraph that are not spent or encumbered as of December 31 of any year by county departments under s. 46.215, 46.22 or 46.23.

(b) 1. For distribution under s. 46.98 (2g) for child day care services under s. 46.98 (2m), the department shall allocate, from the appropriation under s. 20.435 (7) (b), not more than \$1,918,400 for the last 6 months of 1991, not more than \$3,773,000 for 1992 and not more than \$1,881,800 for the first 6 months of 1993. ~~The department may carry forward funds allocated under this paragraph, but not encumbered by December 31, for distribution under s. 46.98 (2g) for child day care services under s. 46.98 (2m) in the following calendar year transfer funds between this subdivision and par. (a) 1. as necessary to adjust the state match required for the federal child care grant moneys received under 42 USC 603 (n). The department shall carry forward from one calendar year to another funds allocated for child care services under this subdivision that are not spent or encumbered as of December 31 of any year.~~

2. For distribution under s. 46.98 (2g) for child day care services under s. 46.98 (2m), the department shall allocate, from the federal child care grant moneys received under 42 USC 603 (n) and appropriated under s. 20.435 (7) (o), not more than \$2,877,400 for the last 6 months of 1991, not more than \$5,754,800 for 1992 and not more than \$2,877,400 for the first 6 months of 1993. The department shall carry forward from one calendar year to another funds allocated for child day care services under this subdivision that are not spent or encumbered as of December 31 of any year.

SECTION 5g. 46.40 (4) (c) of the statutes is created to read:

46.40 (4) (c) If the department receives any additional federal reimbursement for child care provided for persons under s. 49.50 (7) to (7m) and paid for with funds allocated under this subsection, the department shall allocate those additional federal funds for the purposes specified in s. 46.40 (4).

SECTION 6. 46.49 of the statutes is amended to read:

46.49 Allocation of federal funds for community aids and child welfare. If the department receives unanticipated federal alcohol, drug abuse and mental health block grant funds under 42 USC 300x to 300x-9, federal child care grant funds under 42 USC 603 (n), foster care and adoption assistance payments under 42 USC 670 to 676 or social services block grant funds under 42 USC 1397 to 1397e or child care and development block grant funds under 42 USC 9858 and it proposes to allocate the unanticipated funds so that an allocation limit in s. 46.40 is exceeded, the department shall submit a plan for the proposed allocation to the joint committee on finance. If the cochairpersons of the committee do not notify the department that the committee has scheduled a meeting for the purpose of reviewing the plan within 14 working days after the date of the department's submittal, the

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department may implement the plan, notwithstanding s. 46.40. If within 14 working days after the date of the secretary's submittal the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the plan, the department may implement the plan, notwithstanding s. 46.40, only with the approval of the committee.

SECTION 7. 46.979 of the statutes is created to read:

46.979 Expenditure of federal child care and development block grant funds. (1) In this section "child care provider" has the meaning given in s. 46.98 (1) (am).

(2) Subject to ss. 16.54 (2) and 46.49, the department shall, within the limits of the availability of the federal child care and development block grant funds received under 42 USC 9858, do all of the following:

(a) From the appropriation under s. 20.435 (7) (o), allocate \$7,818,700 in fiscal year 1991-92 and \$8,812,700 in fiscal year 1992-93 for child day care services under s. 46.98 (3).

(b) From the appropriation under s. 20.435 (6) (mc), allocate \$107,400 in fiscal year 1991-92 and \$132,700 in fiscal year 1992-93 for the purposes of providing technical assistance for child care providers and of administering the child care programs funded under s. 20.435 (7) (b), (md) and (o) and allocate \$205,200 in fiscal year 1991-92 and \$410,500 in fiscal year 1992-93 for the purpose of day care center licensing under s. 48.65.

(c) From the appropriation under s. 20.435 (7) (md), allocate as follows the federal child care and development block grant funds that are received under 42 USC 9858 and that are not allocated under par. (a) or (b):

1. For grants under s. 46.986 (3) to (5) for the start-up and expansion of child day care services, \$1,590,100 in fiscal year 1991-92 and \$1,268,500 in fiscal year 1992-93.

2. For grants under s. 46.984 (2) for child day care resource and referral services, \$834,400 in fiscal year 1991-92 and \$928,800 in fiscal year 1992-93.

3. For grants under s. 46.987 (3) to assist child care providers in meeting the quality of care standards established under s. 46.98 (4) (e) and for a system of rates or a program of grants, as provided under s. 46.98 (4) (e), to reimburse child care providers that meet those quality of care standards, \$600,000 in fiscal year 1991-92 and \$1,200,000 in fiscal year 1992-93. If an amount allocated under this subdivision will not be fully expended, the department may transfer the unexpended funds to the allocation under subd. 4.

4. For grants under s. 46.987 (2) and contracts under s. 46.987 (4) to improve the quality of child day care services in this state, \$524,800 in fiscal year 1991-92 and \$412,400 in fiscal year 1992-93, plus any amounts that the department transfers to this allocation under subd. 3. To the extent permitted under federal law, the department shall transfer to the following fiscal year any funds allo-

cated under this subdivision that are not spent or encumbered in the fiscal year in which the funds were allocated and use those transferred funds in the following fiscal year for the purposes specified in this subdivision.

SECTION 8. 46.98 (2m) (e) of the statutes, as created by 1991 Wisconsin Act 39, is amended to read:

46.98 (2m) (e) Notwithstanding pars. (a) and (d) 2., if in any year the department determines that a county department under s. 46.215, 46.22 or 46.23 to which funds are distributed under sub. (2g) will be unable to expend all of those funds for the purposes specified in pars. (a) and (b) by December 31 of that year, the department may authorize that county department to expend part of the funds distributed under sub. (2g) from the allocation under s. 46.40 (4) (b) 1. for grants for the start-up or expansion of child care facilities to serve persons who are eligible for child care funds under sub. (2r). A county department that wishes to expend funds distributed under sub. (2g) for grants for the start-up or expansion of child care facilities in any year shall submit to the department a request to do so in writing by December 31 of that year. Section 46.986 (3) (c) and (6) applies to start-up or expansion grants made under this paragraph.

SECTION 9. 46.98 (3) (c) of the statutes is amended to read:

46.98 (3) (c) From the funds distributed under sub. (2) (a) 1., a county may provide day care services itself or it may purchase day care services from a child care provider. In addition, from the funds distributed under sub. (2) (a) 1., each county shall, subject to the availability of funds, provide day care by offering to each eligible parent a voucher for the payment of day care services provided by a child care provider. Each county shall allocate all or a portion of its day care funding for payment of vouchers. Except for parents who are eligible under sub. (4) (a) 4., an eligible parent has the right to choose whether the care will be provided in a day care center, in the home of another person or, subject to the county's approval, in the parent's home. A parent who uses vouchers for the payment of day care services may supplement the maximum rate for day care services set under sub. (4) (d) or, if a higher rate for day care services is set under sub. (4) (e), the rate set under sub. (4) (e), whichever is applicable.

SECTION 10. 46.98 (4) (d) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

46.98 (4) (d) Each county shall annually set a maximum rate that it will pay for day care services provided to eligible parents, other than day care services for which a rate, if any, is established under par. (e). A county shall set its maximum rate under this paragraph so that at least 75% of the number of places for children within the licensed or certified capacity of all child care providers in that county can be purchased at or below that maximum rate. The department shall annually review each county's rate and shall approve it if the department finds

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that the rate is set at a reasonable and customary level which does not preclude an eligible parent from having a reasonable selection of child care providers. The department shall promulgate by rule a procedure and criteria for approving county rates.

SECTION 11. 46.98 (4) (e) of the statutes is created to read:

46.98 (4) (e) 1. The department shall promulgate rules to establish quality of care standards for child care providers that are higher than the quality of care standards required for licensure under s. 48.65 or for certification under s. 48.651. The standards established by rules promulgated under this subdivision shall consist of the standards provided for the accreditation of day care centers by the national association for the education of young children or any other comparable standards that the department may establish, including standards regarding the turnover of child care provider staff and the training and benefits provided for child care provider staff.

2. To the extent permitted under federal law, the department shall also promulgate rules to establish a system of rates or a program of grants that the department will pay to child care providers that meet the higher quality of care standards established by rules promulgated under subd. 1. If a system of rates is established by the rules promulgated under this subdivision, the rates under that system shall be higher than the rate established under par. (d).

SECTION 12. 46.98 (5) (b) of the statutes is amended to read:

46.98 (5) (b) The department shall provide training and technical assistance to counties relating to the administration of the programs under this section.

SECTION 13. 46.984 of the statutes is created to read:

46.984 Child care resource and referral service grants. (1) DEFINITIONS. In this section:

(a) “Indian tribe” means a federally recognized American Indian tribe or band in this state.

(b) “Local agency” means a nonprofit, tax-exempt corporation or an Indian tribe that provides or proposes to provide child care resource and referral services that are funded under this section.

(c) “Nonprofit, tax-exempt corporation” means a nonstock, nonprofit corporation organized under ch. 181 that is exempt from taxation under section 501 (c) of the internal revenue code.

(2) RESOURCE AND REFERRAL SERVICE GRANTS. (a) From the allocation under s. 46.979 (2) (c) 2., the department shall make grants to applying local agencies to fund child care resource and referral services provided by those local agencies. The department shall provide an allocation formula to determine the amount of a grant awarded under this section. The allocation formula shall factor in the level of child care resource and referral services provided by the local agency, the number of chil-

dren in the community served by the local agency and the percentage of the mothers in the community served by the local agency who work outside the home.

(b) In awarding grants under this section, the department shall consider the need for child care resource and referral services in the community that the applicant serves, the extent to which representatives of that community are involved in planning the applicant’s child care resource and referral services program and the capacity of the applicant to provide effective child care resource and referral services.

(c) A local agency that is awarded a grant under this section shall contribute matching funds equal to 25% of the amount awarded under this section. The match may be in the form of money or in-kind goods or services, or both.

(d) The department may award a grant under this section to a local agency only if that local agency meets any of the following requirements:

1. The local agency is solely in the business of providing child care resource and referral services.

2. If the local agency provides services, or is affiliated with a person who provides services, other than child care resource and referral services, the local agency, or the person with whom the local agency is affiliated, may not be a provider of child care services or of early childhood education services. If the local agency provides, or is affiliated with a person who provides, services other than child care resource and referral services, the local agency must have an advisory committee to provide oversight for the portion of the local agency’s services that are child care resource and referral services.

(3) USE OF GRANT FUNDS. (a) A local agency that is awarded a grant under this section may use the funds to provide any of the following services:

1. Technical assistance and support to child care providers.

2. Recruitment of child care providers in areas of need.

3. Information on the child care service options that are available in the community served by the local agency.

4. A data resource file that identifies the child care service options that are available in the community served by the local agency and that documents the requests and needs of parents in that community for child care services.

5. Programs or information on continuing education and training for child care providers.

6. Any other information regarding the availability and quality of child care services in the community served by the local agency.

(b) A local agency that is awarded a grant under this section may not use the funds to supplant any other funds that the local agency uses to provide child care resource

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and referral services at the time of the awarding of the grant.

(4) DEPARTMENT RESPONSIBILITIES. The department shall do all of the following:

(a) Administer, or contract for the administration of, the grant program under this section and disburse funds awarded under that program.

(b) Provide consultation and technical assistance to local agencies in the preparation of grant applications and the operation of child care resource and referral services programs funded under this section.

(c) Monitor the child care resource and referral services provided by a grant recipient.

(5) APPLICATION. Each grant application shall include all of the following information:

(a) Evidence of the need for child care resource and referral services in the applicant's community.

(b) Identification of the child care resource and referral services to be provided under the grant.

(c) Identification of the resources and funding needed by the applicant to establish a program of child care resource and referral services.

SECTION 14. 46.986 of the statutes is created to read:

46.986 Child care start-up and expansion. (1)

DEFINITIONS. In this section:

(a) "Before-school and after-school child care program" means a child care program that is provided every day, other than Saturdays, Sundays and legal holidays under s. 895.20, during the hours that school is not in session and that is not intended to extend or replace a school's regular academic program. In this paragraph, "every day" includes days on which school is not in session.

(b) "Child care provider" has the meaning given in s. 46.98 (1) (am).

(c) "Coordinated family child care start-up effort" means a group of child care providers that applies for a grant under this section through the sponsorship of a non-profit, tax-exempt corporation.

(d) "Day care center" means a facility operated by a child care provider that provides care and supervision for 4 or more children under 7 years of age for less than 24 hours a day.

(e) "Day care program" means a program established and provided by a school board under s. 120.13 (14) or purchased by a school board from a provider licensed under s. 48.65, which combines care for a child who resides with a student parent who is a parent of that child with parenting education and experience for that student parent.

(f) "Early childhood development program" means a program of services that are intended to provide an environment that enhances the educational, social, cultural, emotional and recreational development of children, but that is not intended to serve as a substitute for a school's regular academic program.

(g) "Employer" means a person who engages the services of an employe, and includes the state, its political subdivisions and any office, department, independent agency, authority, institution, association, society or other body in state or local government created or authorized to be created by the constitution or any law, including the courts and the legislature.

(h) "Employer-supported child care program" means a child care program to which an employer contributes financial assistance to subsidize the operations of the child care program.

(i) "Family child care system" means a centralized administrative unit that offers technical assistance and support to a group of child care providers with the goal of improving child care services.

(j) "Family day care center" means a day care center that provides care and supervision for not less than 4 nor more than 8 children.

(k) "Group day care center" means a day care center that provides care and supervision for 9 or more children.

(L) "Nonprofit, tax-exempt corporation" has the meaning given in s. 46.984 (1) (c).

(m) "Parent" has the meaning given in s. 46.98 (1) (c).

(n) "Student parent" means a pupil who is enrolled in a middle school, junior high school or senior high school and who is a parent.

(2) START-UP AND EXPANSION. (a) In awarding child care start-up and expansion grants under this section, the department shall give priority to increasing the availability of early childhood development programs for infants and to increasing the availability of early childhood development programs and before-school and after-school child care programs in economically depressed urban and rural areas, on federally recognized American Indian reservations and in bureau of Indian affairs service areas for the Winnebago tribe.

(b) The department shall attempt to award grants under this section equally among head start agencies designated under 42 USC 9836, employers that provide or wish to provide child care services for their employes, family day care centers, group day care centers and day care programs for the children of student parents, but may, after considering proposals from child care providers in each of those categories, award grants under this section in unequal amounts among those categories.

(c) The department shall attempt to award grants under this section to the highest ranking applicants in each region of the state established by the department under sub. (7) (a). After awarding grants to the highest ranking applicants in each region of the state, the department may award any additional grants under this section to the remaining applicants with the highest rankings statewide.

(3) CHILD CARE PROVIDER GRANTS. (a) From the allocation under s. 46.979 (2) (c) 1., the department shall

award grants for the start-up or expansion of child care provided by child care providers in any of the following categories:

1. Head start agencies designated under 42 USC 9836.
2. Group day care centers.
3. Family day care centers.
4. Other persons that provide or wish to provide child care services.

(b) A group of child care providers or other persons seeking funds under this subsection may submit a combined grant application. A combined grant application may be submitted through a coordinated family child care start-up effort. A combined grant application shall specify how the amount requested will be distributed among the child care providers or other persons included in the grant request.

(c) A child care provider or other person that is awarded a grant under this subsection shall contribute matching funds equal to 25% of the amount awarded under this subsection. The match may be in the form of money or in-kind goods or services, or both.

(d) If a child care provider or other person that is awarded a grant under this subsection does not provide the new or expanded child care services for which the grant was awarded by the end of the grant period, the department may require the child care provider or other person to return to the department the full amount of the grant award. If a child care provider or other person that is awarded a grant under this subsection provides the new or expanded child care services for which the grant was awarded, but terminates its child care program within 3 years after the awarding of the grant, the child care provider or other person shall return to the department a prorated share of the amount awarded, based on the time remaining in that 3-year period at the time of program termination. Amounts returned to the department under this paragraph shall be deposited in the appropriation under s. 20.435 (7) (ie). The department may bring an action in any court of competent jurisdiction to enforce repayment of any moneys that are required under this paragraph to be repaid. The department may reduce or waive the repayment required under this paragraph if in the opinion of the department the grant recipient made a good faith effort to comply with the terms of the grant.

(4) EMPLOYER-SUPPORTED CHILD CARE GRANTS. (a) From the allocation under s. 46.979 (2) (c) 1., the department shall award grants to employers for the start-up or expansion of child care services for the children of the employers' employes. An employer that is awarded a grant under this subsection may use the grant funds awarded to start up or expand one or more group or family day care centers, a family child care system or any other child care program for the children of the employer's employes.

(b) An employer that is awarded a grant under this subsection shall contribute matching funds equal to 25% of the amount awarded under this subsection. The match may be in the form of money or in-kind goods or services, or both.

(c) If an employer that is awarded a grant under this subsection does not provide the new or expanded child care services for which the grant was awarded by the end of the grant period, the department may require the employer to return to the department the full amount of the grant award. If an employer that is awarded a grant under this subsection provides the new or expanded child care services for which the grant was awarded, but terminates its child care program within 3 years after the awarding of the grant, the employer shall return to the department a prorated share of the amount awarded, based on the time remaining in that 3-year period at the time of program termination. Amounts returned to the department under this paragraph shall be deposited in the appropriation under s. 20.435 (7) (ie). The department may bring an action in any court of competent jurisdiction to enforce repayment of any moneys that are required under this paragraph to be repaid. The department may reduce or waive the repayment required under this paragraph if in the opinion of the department the grant recipient made a good faith effort to comply with the terms of the grant.

(5) DAY CARE PROGRAMS FOR STUDENT PARENTS. From the allocation under s. 46.979 (2) (c) 1., the department shall award grants to school boards for the start-up or expansion of day care programs for student parents. A school board is eligible for a grant only if it agrees to comply with all of the following conditions:

(a) The school board has established or will establish a school age parent program under subch. VI of ch. 115.

(b) The school board will develop a plan, to be approved by the department, for coordinating the day care program with other services, including public health, education, employment, family and social services, that are available in the community for student parents.

(c) The day care program will be located either in or within walking distance of the building in which a student parent attends school or on premises which are readily accessible to a student parent. For a day care program which is not within walking distance for a student parent, the school board shall develop a plan to ensure that the program is readily accessible to a student parent.

(d) The day care program will accept infants.

(e) The school board will require each student parent whose child receives day care services under this subsection to demonstrate an acceptable level of effort to complete high school and, if the day care program is located in the building in which the student parent attends school, to work in the day care center for at least 5 class hours a

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week, for which the school district will give the student parent a grade and credit toward high school graduation. If the day care program is not located in the building in which the student parent attends school, the school board shall develop a plan to allow the student parent to work in the day care center on a regular basis and obtain credit toward high school graduation.

(f) Notwithstanding s. 120.13 (14), the school board may not charge a student parent a fee for day care services.

(g) The school board will develop a plan, to be approved by the state superintendent of public instruction, for the parenting education component of the day care program.

(h) The school board will contribute matching funds equal to 25% of the amount awarded under this subsection. The match may be in the form of money or in-kind goods or services, or both.

(i) If the school board does not provide the new or expanded child care services for which the grant was awarded by the end of the grant period, the department may require the school board to return to the department the full amount of the grant award. If the school board provides the new or expanded child care services for which the grant was awarded, but terminates its day care program within 3 years after the awarding of the grant, the school board shall return to the department a prorated share of the amount awarded, based on the time remaining in that 3-year period at the time of program termination. Amounts returned to the department under this paragraph shall be deposited in the appropriation under s. 20.435 (7) (ie). The department may bring an action in any court of competent jurisdiction to enforce repayment of any moneys that are required under this paragraph to be repaid. The department may reduce or waive the repayment required under this paragraph if in the opinion of the department the school board made a good faith effort to comply with the terms of the grant.

(6) **LIMIT ON EXPENDITURE OF FUNDS.** No funds provided under this section may be used for the purchase or improvement of land or for the purchase, construction or permanent improvement, other than minor remodeling, of any building or facility.

(7) **GRANT ADMINISTRATION.** (a) The department shall promulgate rules for the administration of the grant program under this section, including rules to establish criteria for evaluating, and a point system for ranking, grant applications.

(b) The department may administer the grant application process under this section or, if a county department under s. 46.215, 46.22 or 46.23 has established a child care advisory committee that has been approved by the department, the department may request the county department to administer the grant application process under this section for grant applicants from the county of the county department. If a county department adminis-

ters the grant application process under this section, the county department shall review the grant applications submitted to the county department using the criteria and ranking system established by the department under par. (a). The department may require a county department that reviews grant applications under this section to submit those applications and the county department's ranking of those applications to the department for final review.

SECTION 15. 46.987 of the statutes is created to read:
46.987 Child care quality improvement. (1) DEFINITIONS. In this section:

(a) "Child care provider" has the meaning given in s. 46.98 (1) (am).

(b) "Day care center" has the meaning given in s. 46.986 (1) (d).

(c) "Family child care system" has the meaning given in s. 46.986 (1) (i).

(d) "Family day care center" has the meaning given in s. 46.986 (1) (j).

(e) "Group day care center" has the meaning given in s. 46.986 (1) (k).

(2) **STAFF RETENTION GRANTS.** (a) From the allocation under s. 46.979 (2) (c) 4 and from the appropriation under s. 20.435 (7) (ie), the department may award grants to child care providers that meet the quality of care standards established under s. 46.98 (4) (e) to improve the retention of skilled and experienced child care staff. In awarding grants under this subsection, the department shall consider the applying child care provider's average enrollment of children who receive publicly funded care from the child care provider.

(b) A child care provider that is awarded a grant under this subsection shall contribute matching funds equal to 25% of the amount awarded under this subsection. The match may be in the form of money or in-kind goods or services, or both.

(c) A child care provider that is awarded a grant under this subsection may use the funds to provide advanced training for the child care provider's child care staff, to improve the salaries and benefits provided to the child care provider's child care staff and to undertake other activities or projects to improve the retention of the child care provider's child care staff.

(3) **QUALITY IMPROVEMENT GRANTS.** (a) From the allocation under s. 46.979 (2) (c) 3. and the appropriation under s. 20.435 (7) (ie), the department may award grants to child care providers for assistance in meeting the quality of care standards established under s. 46.98 (4) (e).

(b) A child care provider that is awarded a grant under this subsection shall contribute matching funds equal to 25% of the amount awarded under this subsection. The match may be in the form of money or in-kind goods or services, or both.

(c) A child care provider that is awarded a grant under this subsection shall use the grant funds to attempt to

meet the quality of care standards established under s. 46.98 (4) (e) within 24 months after receipt of the grant.

(4) TRAINING AND TECHNICAL ASSISTANCE CONTRACTS. From the allocation under s. 46.979 (2) (c) 4. and the appropriation under s. 20.435 (7) (ie), the department may contract with one or more agencies for the provision of training and technical assistance to improve the quality of child care provided in this state. The training and technical assistance activities contracted for under this subsection may include any of the following activities:

(a) Developing and recommending to the department a system of higher reimbursement rates or a program of grants for child care providers that meet the quality of care standards established under s. 46.98 (4) (e).

(b) Developing a plan for a uniform, statewide system of career development, credentialing and training for individuals who provide child care.

(c) Disseminating to the public information about child care that meets the quality of care standards established under s. 46.98 (4) (e).

(d) Providing informational resources to child care providers.

(e) Providing advanced training to child care providers and the staff of child care providers.

(f) Developing family child care systems.

(g) Developing resources to provide child care in a generic setting for children with special needs.

(h) Providing any other services to improve the availability and quality of child care in this state.

(5) LIMIT ON EXPENDITURE OF FUNDS. No funds provided under this section may be used for the purchase or improvement of land or for the purchase, construction or permanent improvement, other than minor remodeling, of any building or facility.

(6) GRANT ADMINISTRATION. (a) The department shall promulgate rules for the administration of the grant programs under subs. (2) and (3), including rules to establish criteria for evaluating, and a point system for ranking, grant applications.

(b) The department may administer the grant application processes under subs. (2) and (3) or, if a county department under s. 46.215, 46.22 or 46.23 has established a child care advisory committee that has been approved by the department, the department may request the county department to administer the grant application processes under subs. (2) and (3) for grant applicants from the county of the county department. If a county department administers the grant application processes under subs. (2) and (3), the county department shall review the grant applications submitted to the county department using the criteria and ranking system established by the department under par. (a). A county department that reviews grant applications under subs. (2) and (3) shall submit those applications and the county department's ranking of those applications to the department for final review.

(c) The department shall attempt to award grants under this section to the highest ranking applicants in each region of the state established by the department under par. (a). After awarding grants to the highest ranking applicants in each region of the state, the department may award any additional grants under this section to the remaining applicants with the highest rankings statewide.

SECTION 16. 48.655 of the statutes is created to read:

48.655 Parental access. A day care provider licensed under s. 48.65, certified under s. 48.651 or established or contracted for under s. 120.13 (14) shall permit any parent or guardian of a child enrolled in the program to visit and observe the program of child care at any time during the provider's hours of operation, unless the visit or observation is contrary to an existing court order.

SECTION 16f. 48.656 of the statutes is created to read:

48.656 Parent's right to know. Every parent, guardian or legal custodian of a child who is receiving care and supervision, or of a child who is a prospective recipient of care and supervision, from a day care center licensed under s. 48.65 (1) or provisionally licensed under s. 48.69 that provides care and supervision for 9 or more children has the right to know certain information about the day care center that would aid the parent, guardian or legal custodian is assessing the quality of care and supervision provided by the day care center.

SECTION 16g. 48.657 of the statutes is created to read:

48.657 Day care center reports. (1) By July 1 of each year, the department shall provide each day care center licensed under s. 48.65 (1) or provisionally licensed under s. 48.69 that provides care and supervision for 9 or more children with a report that includes the following information:

(a) Serious violations of statutes, rules promulgated by the department under s. 48.67 or provisions of licensure under s. 48.70 (1) by the day care center during the previous year and the dates on which those violations were corrected. In providing information under this paragraph regarding violations, the department may not disclose the identify of any employe of the day care center.

(b) A telephone number at the department that a person may call to complain of any alleged violation of a statute, rule promulgated by the department under s. 48.67 or provision of licensure under s. 48.70 (1) by the day care center.

(2) Upon receipt of a report under sub. (1), a day care center shall post the report and the results of the most recent inspection of the day care center conducted under s. 48.73 next to the day care center's license or provisional license in a place where the report and the inspection results can be seen by parents, guardians or legal custodians during the day care center's hours of operation.

(3) The department may require a day care center to provide to the department any information that is neces-

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sary for the department to prepare the report under sub. (1).

SECTION 17. 48.71 (1) of the statutes is amended to read:

48.71 (1) All licenses Licenses issued by the department shall may be for any term not to exceed 2 years from the date of issuance. No license shall be is transferable. Licenses Except for licenses issued under s. 48.65 or provisional licenses issued to day care centers under s. 48.69, licenses may be revoked by the department because the licensee has substantially violated any provision of this chapter or of the rules of the department promulgated pursuant to s. 48.67 or because the licensee fails to meet the minimum requirements for a license.

SECTION 18. 48.715 of the statutes is created to read:

48.715 Day care licenses; sanctions; forfeitures.

(1) In this section, "licensee" means a person licensed under s. 48.65 or provisionally licensed as a day care center under s. 48.69.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a day care center if the day care center is without a license in violation of s. 48.65 or without a provisional day care license under s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.65 or a provisional license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employe.

(c) That a licensee stop violating any provision of licensure under s. 48.70 (1) or rules relating to day care promulgated by the department under s. 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.67 relating to day care.

(e) That a licensee implement and comply with a plan of correction previously submitted by the licensee and approved by the department.

(3) The department may impose a forfeiture against a licensee or any other person who fails to comply with an order issued under sub. (2) by the time specified in the order. The daily forfeiture amount per violation shall be not less than \$10 nor more than \$50. Within these limits, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. As part of the order, the department may set daily forfeiture amounts that increase periodically within the statutory

limits if there is continued failure to comply with an order issued under sub. (2).

(4) If the department provides written notice of revocation and the grounds for revocation and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.65 or a provisional day care license under s. 48.69 for any of the following reasons:

(a) The department has imposed a forfeiture on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.67, a provision of licensure under s. 48.70 (1) or an order under this section forming any part of the basis for the forfeiture.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.67, a provision of licensure under s. 48.70 (1) or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the day care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

(5) The department may deny a license under s. 48.65 or a provisional license under s. 48.69 to any person who has had a license under s. 48.65 or a provisional license under s. 48.69 revoked within the previous 5 years.

SECTION 19. 48.72 of the statutes is amended to read:

48.72 Appeal procedure. Any person aggrieved by the department's refusal or failure to issue or renew a license ~~or~~ by its revocation of a license or by action taken under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue or renew a license, revocation of a license or action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had as provided in ch. 227.

SECTION 20. 48.76 of the statutes is amended to read:

48.76 Penalties. ~~Any~~ In addition to the penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

SECTION 21. 49.50 (6g) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (6g) DAY CARE FUNDS FOR FORMER RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN. The

department shall pay the child care costs of an individual who secures unsubsidized employment and loses eligibility for aid to families with dependent children because of earned income or number of hours worked for up to 12 months following the loss of eligibility if the child care is provided by a child care provider. The department shall establish a formula for assistance based on ability to pay. The rates for child care services under this subsection shall be determined under s. 46.98 (4) (d), or if a higher rate is established under s. 46.98 (4) (e) and if the child care services meet the quality standards established under s. 46.98 (4) (e), the rates for child care services under this subsection that meet those standards shall be determined under s. 46.98 (4) (e). The department shall promulgate rules for the disbursement of funds under this subsection.

SECTION 22. 49.50 (7) (e) 1. of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (7) (e) 1. For an individual who is a recipient of aid under s. 49.19, who is the parent with whom a dependent child lives and who is either required to attend school under par. (g) or is 13 to 19 years of age and wants to attend school, the department shall make a monthly payment to the individual or the child care provider for the month's child care costs in an amount based on need with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 46.98 (4) (d) or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), in an amount based on need with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 46.98 (4) (e), if the individual demonstrates the need to purchase child care services in order to attend school and those services are available from a child care provider.

SECTION 23. 49.50 (7) (e) 2. of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (7) (e) 2. The department shall establish procedures to ensure that reimbursement of child care expenses of participants in the program under this subsection other than those under subd. 1 is made consistently within 2 weeks after a recipient submits a claim form. Reimbursement for child care shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 46.98 (4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), reimbursement for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 46.98 (4) (e). The department may reimburse the child care expenses of a participant in the program under this

subsection only if the child care is provided by a child care provider.

SECTION 24. 49.50 (7c) (a) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (7c) (a) The department shall administer an employment search program under 42 USC 602 (a) (19) or 42. USC 682 (g) for recipients of aid to families with dependent children. The department shall provide directly, or purchase through contracts, services including support services to assist individuals in obtaining regular, unsubsidized employment. Support services shall include child care and transportation costs reasonably incurred by program participants in order to meet the requirements of the program. Payment for child care shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established by rules promulgated under s. 46.98 (4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), payment for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (e). The department may reimburse the child care costs of a participant in the program under this subsection only if the child care is provided by a child care provider.

SECTION 25. 49.50 (7j) (dm) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (7j) (dm) The department shall provide funds to pay the child care costs of a person participating in the program under this subsection if the child care is provided by a child care provider. Payment for child care shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), payment for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (e).

SECTION 26. 49.50 (7j) (e) of the statutes, as affected by 1991 Wisconsin Acts 6 and 39, is amended to read:

49.50 (7j) (e) From the appropriation under s. 20.435 (4) (df), the department shall provide funds to pay the child care costs of a person subject to par. (d) 4. or 6m in a county that the department reimburses under par. (d) 2. if the child care is provided by a child care provider. The funds shall be used to provide care for children for all or part of a day during which the person works. Payment for child care shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98

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(4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), payment for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (e).

SECTION 27. 49.50 (7m) (jj) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

49.50 (7m) (jj) From the appropriation under s. 20.435 (4) (df), the department shall provide funds to pay the child care costs of a person subject to par. (f) or (fm) in a county that the department selects to receive reimbursement under par. (jg) if the child care is provided by a child care provider. The funds shall be used to provide care for children for all or part of a day during which the person works. Payment for child care shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), payment for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (e).

SECTION 28. 1991 Wisconsin Act 39, section 9125 (2j) is repealed.

SECTION 9125. Nonstatutory provisions; health and social services.

(1) CHILD CARE PLANNING AND OVERSIGHT COMMITTEE. The secretary of health and social services shall appoint an advisory committee under section 15.04 (1) (c) of the statutes or a committee or subcommittee of the department that exists on the effective date of this subsection to advise the department of health and social services in planning the expenditure of the federal child care and development block grant funds received under 42 USC 9858 and appropriated under section 20.435 (6) (mc) and (7) (md) of the statutes and under section 20.435 (7) (o) of the statutes, as affected by this act. Members of the committee appointed under section 15.04 (1) (c) of the statutes or of the existing committee or subcommittee shall have demonstrated a continuing interest in the problems of providing quality child care services. At least one-half of the members of the committee appointed under section 15.04 (1) (c) of the statutes or of the existing committee or subcommittee shall be members who are not public officers or employees and who have no interest in or affiliation with any child care provider, as defined in section 46.98 (1) (am) of the statutes.

(2) REPORT ON QUALITY OF CARE STANDARDS. By January 1, 1993, the department of health and social services shall submit a report to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees in the manner provided under section

13.172 (3) of the statutes, on the quality of care standards established under section 46.98 (4) (e) of the statutes, as created by this act. The report shall specify whether or not federal approval has been obtained to provide higher rates of reimbursement to child care providers, as defined in section 46.98 (1) (am) of the statutes, that meet those higher quality of care standards. The report shall also describe any transfers of funds made from the allocation under section 46.979 (2) (c) 3 of the statutes, as created by this act, to the allocation under section 46.979 (2) (c) 4 of the statutes, as created by this act.

(3) RULES.

(a) Notwithstanding that the department of health and social services is required under section 46.98 (4) (e) of the statutes, as created by this act, to establish, by rule, quality of care standards for child care providers, as defined in section 46.98 (1) (am) of the statutes, that are higher than the standards required for day care licensure under section 48.65 of the statutes or for day care certification under section 48.651 of the statutes and to establish, by rule, a system of rates or a program of grants to be paid to those child care providers, the department of health and social services may establish those quality of care standards and that system of rates or program of grants and pay that higher rate or provide those grants prior to the promulgation of the rules required under section 46.98 (4) (e) of the statutes, as created by this act.

(b) Notwithstanding that the department of health and social services is required under section 46.986 (7) (a) of the statutes, as created by this act, to promulgate rules for the administration of the child care start-up and expansion grant program under section 46.986 of the statutes, as created by this act, the department of health and social services may administer that grant program and expend the moneys allocated for that grant program under section 46.979 (2) (c) 1. of the statutes, as created by this act, prior to the promulgation of the rules required under section 46.986 (7) (a) of the statutes, as created by this act.

(c) Notwithstanding that the department of health and social services is required under section 46.987 (6) (a) of the statutes, as created by this act, to promulgate rules for the administration of the child care staff retention grant program and the child care quality improvement grant program under section 46.986 (2) and (3) of the statutes, as created by this act, the department of health and social services may administer those grant programs and expend the moneys allocated for those grant programs under section 46.979 (2) (c) 4. of the statutes, as created by this act, prior to the promulgation of the rules required under section 46.987 (6) (a) of the statutes, as created by this act.

(d) The department of health and social services shall submit the proposed rules required under sections 46.98 (4) (e), 46.986 (7) (a) and 46.987 (6) (a) of the statutes, as created by this act, to the legislative council staff under

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section 227.15 (1) of the statutes no later than July 1, 1994.

SECTION 9300. Initial applicability.

(1) LICENSE SANCTIONS FOR DAY CARE PROVIDERS. The treatment of sections 48.71 (1), 48.715, 48.72 and 48.76

of the statutes first applies to proceedings under section 48.715 (2) and (4) (b) and (c) of the statutes, as created by this act, initiated on the effective date of this subsection.
