

1 Title: To provide for grants to support the provision of child care by reopening and maintaining
2 the operation of child care programs.
3
4

5 Be it enacted by the Senate and House of Representatives of the United States of America in
6 Congress assembled,

7 SECTION 1. SHORT TITLE.

8 This Act may be cited as the “Back to Work Child Care Grants Act of 2020”.

9 SEC. 2. BACK TO WORK CHILD CARE GRANTS.

10 (a) Purpose.—The purpose of this section is to support the recovery of the United States
11 economy by providing assistance to aid in reopening child care programs, and maintaining the
12 availability of child care in the United States, so that parents can access safe care and return to
13 work.

14 (b) Definitions.—In this section:

15 (1) COVID–19 PUBLIC HEALTH EMERGENCY.—The term “COVID–19 public health
16 emergency” means the public health emergency declared by the Secretary of Health and
17 Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on
18 January 31, 2020, with respect to COVID–19, including any renewal of such declaration.

19 (2) ELIGIBLE CHILD CARE PROVIDER.—The term “eligible child care provider” means—

20 (A) an eligible child care provider as defined in section 658P(6)(A) of the Child
21 Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(6)(A)); and

22 (B) a child care provider that—

23 (i) is license-exempt and operating legally in the State;

24 (ii) is not providing child care services to relatives; and

25 (iii) satisfies State and local requirements, including those referenced in section
26 658E(c)(2)(I) of the Child Care and Development Block Grant Act of 1990 ((42
27 U.S.C. 9858c)(c)(2)(I)).

28 (3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal
29 organization” have the meanings given the terms in section 658P of the Child Care and
30 Development Block Grant Act of 1990 (42 U.S.C. 9858n).

31 (4) LEAD AGENCY.—The term “lead agency” has the meaning given the term in section
32 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

33 (5) QUALIFIED CHILD CARE PROVIDER.—The term “qualified child care provider” means
34 an eligible child care provider with an application approved under subsection (g) for the
35 program involved.

36 (6) SECRETARY.—The term “Secretary” means the Secretary of Health and Human
37 Services.

38 (7) STATE.—The term “State” has the meaning given the term in section 658P of the

1 Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

2 (c) Grants for Child Care Programs.—From the funds appropriated to carry out this section,
3 the Secretary shall make Back to Work Child Care grants to States, Indian tribes, and tribal
4 organizations, that submit notices of intent to provide assurances under subsection (d)(2). The
5 grants shall provide for subgrants to qualified child care providers, for a transition period of not
6 more than 9 months to assist in paying for fixed costs and increased operating expenses due to
7 COVID–19, and to reenroll children in an environment that supports the health and safety of
8 children and staff.

9 (d) Process for Allocation of Funds.—

10 (1) ALLOCATION.—Any funds that are appropriated to carry out this section shall be
11 distributed by the Secretary to the Administration for Children and Families for distribution
12 under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) in
13 accordance with subsection (e)(2) of this Act.

14 (2) NOTICE.—Not later than 7 days after funds are appropriated to carry out this section,
15 the Secretary shall provide to States, Indian tribes, and tribal organizations a notice of
16 funding availability, for Back to Work Child Care grants under subsection (c) from
17 allotments and payments under subsection (e)(2). The Secretary shall issue a notice of the
18 funding allocations for each State, Indian tribe, and tribal organization not later than 14 days
19 after funds are appropriated to carry out this section.

20 (3) NOTICE OF INTENT.—Not later than 14 days after issuance of a notice of funding
21 allocations under paragraph (1), a State, Indian tribe, or tribal organization that seeks such a
22 grant shall submit to the Secretary a notice of intent to provide assurances for such grant.
23 The notice of intent shall include a certification that the State, Indian tribe, or tribal
24 organization will repay the grant funds if such State, Indian tribe, or tribal organization fails
25 to provide assurances that meet the requirements of subsection (f) or to comply with such an
26 assurance.

27 (4) GRANTS TO LEAD AGENCIES.—The Secretary may make grants under subsection (c) to
28 the lead agency of each State, Indian tribe, or tribal organization, upon receipt of the notice
29 of intent to provide assurances for such grant.

30 (5) PROVISION OF ASSURANCES.—Not later than 15 days after receiving the grant, the
31 State, Indian tribe, or tribal organization shall provide assurances that meet the requirements
32 of subsection (f).

33 (e) Federal Reservation; Allotments and Payments.—

34 (1) RESERVATION.—The Secretary shall reserve not more than 1 percent of the amount
35 appropriated to carry out this section to pay for the costs of the Federal administration of
36 this section. The amount appropriated to carry out this section and reserved under this
37 paragraph shall remain available through fiscal year 2021.

38 (2) ALLOTMENTS AND PAYMENTS.—The Secretary shall use the remaining portion of such
39 amount to make allotments and payments, to States, Indian tribes, and tribal organizations
40 that submit such a notice of intent to provide assurances, in accordance with paragraphs (1)
41 and (2) of subsection (a), and subsection (b), of section 658O of the Child Care and
42 Development Block Grant Act of 1990 (42 U.S.C. 9858m), for the grants described in

1 subsection (c).

2 (f) Assurances.—A State, Indian tribe, or tribal organization that receives a grant under
3 subsection (c) shall provide to the Secretary assurances that the lead agency will—

4 (1) require as a condition of subgrant funding under subsection (g) that each eligible child
5 care provider applying for a subgrant from the lead agency—

6 (A) has been an eligible child care provider in continuous operation and serving
7 children through a child care program immediately prior to March 1, 2020;

8 (B) agree to follow all applicable State, local, and tribal health and safety
9 requirements and, if applicable, enhanced protocols for child care services and related
10 to COVID–19 or another health or safety condition;

11 (C) agree to comply with the documentation and reporting requirements under
12 subsection (h); and

13 (D) certify in good faith that the child care program of the provider will remain open
14 for not less than 1 year after receiving such a subgrant, unless such program is closed
15 due to extraordinary circumstances, including a state of emergency declared by the
16 Governor or a major disaster or emergency declared by the President under section 401
17 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency
18 Assistance Act (42 U.S.C. 5170, 5191);

19 (2) ensure eligible child care providers in urban, suburban, and rural areas can readily
20 apply for and access funding under this section, which shall include the provision of
21 technical assistance either directly or through resource and referral agencies or staffed
22 family child care provider networks;

23 (3) ensure that subgrant funds are made available to eligible child care providers
24 regardless of whether the eligible child care provider is providing services for which
25 assistance is made available under the Child Care and Development Block Grant Act of
26 1990 (42 U.S.C. 9857 et seq.) at the time of application for a subgrant;

27 (4) through at least December 31, 2020, continue to expend funds provided under the
28 Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) for the
29 purpose of continuing payments and assistance to qualified child care providers on the basis
30 of applicable reimbursements prior to March 2020;

31 (5) undertake a review of burdensome State, local, and tribal regulations and
32 requirements that hinder the opening of new licensed child care programs to meet the needs
33 of the working families in the State or tribal community, as applicable;

34 (6) make available to the public, which shall include, at a minimum, posting to an internet
35 website of the lead agency—

36 (A) notice of funding availability through subgrants for qualified child care
37 providers under this section; and

38 (B) the criteria for awarding subgrants for qualified child care providers, including
39 the methodology the lead agency used to determine and disburse funds in accordance
40 with subparagraphs (D) and (E) of subsection (g)(4); and

1 (7) ensure the maintenance of a delivery system of child care services throughout the
2 State that provides for child care in a variety of settings, including the settings of family
3 child care providers.

4 (g) Lead Agency Use of Funds.—

5 (1) IN GENERAL.—A lead agency that receives a Back to Work Child Care grant under
6 this section—

7 (A) shall use a portion that is not less than 94 percent of the grant funds to award
8 subgrants to qualified child care providers as described in the lead agency’s assurances
9 pursuant to subsection (f);

10 (B) shall reserve not more than 6 percent of the funds to—

11 (i) use not less than 1 percent of the funds to provide technical assistance and
12 support in applying for and accessing funding through such subgrants to eligible
13 child care providers, including to rural providers, family child care providers, and
14 providers with limited administrative capacity; and

15 (ii) use the remainder of the reserved funds to—

16 (I) administer subgrants to qualified child care providers under paragraph
17 (4), which shall include monitoring the compliance of qualified child care
18 providers with applicable State, local, and tribal health and safety
19 requirements; and

20 (II) comply with the reporting and documentation requirements described
21 in subsection (h); and

22 (C)(i) shall not make more than 1 subgrant under paragraph (4) to a child care
23 provider, except as described in clause (ii); and

24 (ii) may make multiple subgrants to a qualified child care provider, if the lead
25 agency makes each subgrant individually for 1 child care program operated by the
26 provider and the funds from the multiple subgrants are not pooled for use for more
27 than 1 of the programs.

28 (2) ROLE OF THIRD PARTY.—The lead agency may designate a third party, such as a child
29 care resource and referral agency, to carry out the responsibilities of the lead agency, and
30 oversee the activities conducted by qualified child care providers under this subsection.

31 (3) OBLIGATION AND RETURN OF FUNDS.—

32 (A) OBLIGATION.—

33 (i) IN GENERAL.—The lead agency shall obligate at least 50 percent of the grant
34 funds in the portion described in paragraph (1)(A) for subgrants to qualified child
35 care providers by the day that is 6 months after the date of enactment of this Act.

36 (ii) WAIVERS.—At the request of a State, Indian tribe, or tribal organization,
37 and for good cause shown, the Secretary may waive the requirement under clause
38 (i) for the State, Indian tribe, or tribal organization.

39 (B) RETURN OF FUNDS.—Not later than the date that is 12 months after a grant is
40 awarded to a lead agency in accordance with this section, the lead agency shall return

1 to the Secretary any of the grant funds that are not obligated by the lead agency by
2 such date. The Secretary shall return any funds received under this subparagraph to the
3 Treasury of the United States.

4 (4) SUBGRANTS.—

5 (A) IN GENERAL.—A lead agency that receives a grant under subsection (c) shall
6 make subgrants to qualified child care providers to assist in paying for fixed costs and
7 increased operating expenses, for a transition period of not more than 9 months, so that
8 parents have a safe place for their children to receive child care as the parents return to
9 the workplace.

10 (B) USE OF FUNDS.—A qualified child care provider may use subgrant funds for—

11 (i) sanitation and other costs associated with cleaning the facility, including
12 deep cleaning in the case of an outbreak of COVID–19, of a child care program
13 used to provide child care services;

14 (ii) recruiting, retaining, and compensating child care staff, including providing
15 professional development to the staff related to child care services and applicable
16 State, local, and tribal health and safety requirements and, if applicable, enhanced
17 protocols for child care services and related to COVID–19 or another health or
18 safety condition;

19 (iii) paying for fixed operating costs associated with providing child care
20 services, including the costs of payroll, the continuation of existing (as of March
21 1, 2020) employee benefits, mortgage or rent, utilities, and insurance;

22 (iv) acquiring equipment and supplies (including personal protective
23 equipment) necessary to provide child care services in a manner that is safe for
24 children and staff in accordance with applicable State, local, and tribal health and
25 safety requirements;

26 (v) replacing materials that are no longer safe to use as a result of the COVID–
27 19 public health emergency;

28 (vi) making facility changes and repairs to address enhanced protocols for child
29 care services related to COVID–19 or another health or safety condition, to ensure
30 children can safely occupy a child care facility;

31 (vii) purchasing or updating equipment and supplies to serve children during
32 nontraditional hours;

33 (viii) adapting the child care program or curricula to accommodate children
34 who have not had recent access to a child care setting;

35 (ix) carrying out any other activity related to the child care program of a
36 qualified child care provider; and

37 (x) reimbursement of expenses incurred before the provider received a subgrant
38 under this paragraph, if the use for which the expenses are incurred is described in
39 any of clauses (i) through (ix) and is disclosed in the subgrant application for such
40 subgrant.

1 (C) SUBGRANT APPLICATION.—To be qualified to receive a subgrant under this
2 paragraph, an eligible child care provider shall submit an application to the lead agency
3 in such form and containing such information as the lead agency may reasonably
4 require, including—

5 (i) a budget plan that includes—

6 (I) information describing how the eligible child care provider will use the
7 subgrant funds to pay for fixed costs and increased operating expenses,
8 including, as applicable, payroll, employee benefits, mortgage or rent,
9 utilities, and insurance, described in subparagraph (B)(iii);

10 (II) data on current operating capacity, taking into account previous
11 operating capacity for a period of time prior to the COVID–19 public health
12 emergency, and updated group size limits and staff-to-child ratios;

13 (III) child care enrollment, attendance, and revenue projections based on
14 current operating capacity and previous enrollment and revenue for the
15 period described in subclause (II); and

16 (IV) a demonstration of how the subgrant funds will assist in promoting
17 the long-term viability of the eligible child care provider and how the eligible
18 child care provider will sustain its operations after the cessation of funding
19 under this section;

20 (ii) assurances that the eligible child care provider will—

21 (I) report to the lead agency, before every month for which the subgrant
22 funds are to be received, data on current financial characteristics, including
23 revenue, and data on current average enrollment and attendance;

24 (II) not artificially suppress revenue, enrollment, or attendance for the
25 purposes of receiving subgrant funding;

26 (III) provide the necessary documentation under subsection (h) to the lead
27 agency, including providing documentation of expenditures of subgrant
28 funds; and

29 (IV) implement all applicable State, local, and tribal health and safety
30 requirements and, if applicable, enhanced protocols for child care services
31 and related to COVID–19 or another health or safety condition; and

32 (iii) a certification in good faith that the child care program will remain open
33 for not less than 1 year after receiving a subgrant under this paragraph, unless
34 such program is closed due to extraordinary circumstances described in
35 subsection (f)(1)(D).

36 (D) SUBGRANT DISBURSEMENT.—In providing funds through a subgrant under this
37 paragraph—

38 (i) the lead agency shall—

39 (I) disburse such subgrant funds to a qualified child care provider in
40 installments made not less than once monthly;

1 (II) disburse a subgrant installment for a month after the qualified child
2 care provider has provided, before that month, the enrollment, attendance,
3 and revenue data required under subparagraph (C)(ii)(I) and, if applicable,
4 current operating capacity data required under subparagraph (C)(i)(II); and

5 (III) make subgrant installments to any qualified child care provider for a
6 period of not more than 9 months; and

7 (ii) the lead agency may, notwithstanding subparagraph (E)(i), disburse an
8 initial subgrant installment to a provider in a greater amount than that
9 subparagraph provides for, and adjust the succeeding installments, as applicable.

10 (E) SUBGRANT INSTALLMENT AMOUNT.—The lead agency—

11 (i) shall determine the amount of a subgrant installment under this paragraph by
12 basing the amount on—

13 (I)(aa) at a minimum, the fixed costs associated with the provision of child
14 care services by a qualified child care provider; and

15 (bb) at the election of the lead agency, an additional amount determined
16 by the State, for the purposes of assisting qualified child care providers with,
17 as applicable, increased operating costs and lost revenue, associated with the
18 COVID–19 public health emergency; and

19 (II) any other methodology that the lead agency determines to be
20 appropriate, and which is disclosed in reporting submitted by the lead agency
21 under subsection (f)(6)(B);

22 (ii) shall ensure that, for any period for which subgrant funds are disbursed
23 under this paragraph, no qualified child care provider receives a subgrant
24 installment that when added to current revenue for that period exceeds the
25 revenue for the corresponding period 1 year prior; and

26 (iii) may factor in decreased operating capacity due to updated group size limits
27 and staff-to-child ratios, in determining subgrant installment amounts.

28 (F) REPAYMENT OF SUBGRANT FUNDS.—A qualified child care provider that receives
29 a subgrant under this paragraph shall be required to repay the subgrant funds if the lead
30 agency determines that the provider fails to provide the assurances described in
31 subparagraph (C)(ii)(II), or to comply with such an assurance.

32 (5) SUPPLEMENT NOT SUPPLANT.—Amounts made available to carry out this section shall
33 be used to supplement and not supplant other Federal, State, tribal, and local public funds
34 expended to provide child care services, including funds provided under the Child Care and
35 Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) and State and tribal child
36 care programs.

37 (h) Documentation and Reporting Requirements.—

38 (1) DOCUMENTATION.—A State, Indian tribe, or tribal organization receiving a grant
39 under subsection (c) shall provide documentation of any State or tribal expenditures from
40 grant funds received under subsection (c) in accordance with section 658K(b) of the Child
41 Care Development Block Grant Act of 1990 (42 U.S.C. 9858i(b)), and to the independent

1 entity described in that section.

2 (2) REPORTS.—

3 (A) LEAD AGENCY REPORT.—A lead agency receiving a grant under subsection (c)
4 shall, not later than 12 months after receiving such grant, submit a report to the
5 Secretary that includes for the State or tribal community involved a description of the
6 program of subgrants carried out to meet the objectives of this section, including—

7 (i) a description of how the lead agency determined—

8 (I) the criteria for awarding subgrants for qualified child care providers,
9 including the methodology the lead agency used to determine and disburse
10 funds in accordance with subparagraphs (D) and (E) of subsection (g)(4);
11 and

12 (II) the types of providers that received priority for the subgrants,
13 including considerations related to—

14 (aa) setting;

15 (bb) average monthly revenues, enrollment, and attendance, before
16 and during the COVID–19 public health emergency and after the
17 expiration of State, local, and tribal stay-at-home orders; and

18 (cc) geographically based child care service needs across the State or
19 tribal community; and

20 (ii) the number of eligible child care providers in operation and serving children
21 on March 1, 2020, and the average number of such providers for March 2020 and
22 each of the 11 months following, disaggregated by age of children served,
23 geography, region, center-based child care setting, and family child care setting;

24 (iii) the number of child care slots, in the capacity of a qualified child care
25 provider given applicable group size limits and staff-to-child ratios, that were
26 open for attendance of children on March 1, 2020, the average number of such
27 slots for March 2020 and each of 11 months following, disaggregated by age of
28 children served, geography, region, center-based child care setting, and family
29 child care setting;

30 (iv)(I) the number of qualified child care providers that received a subgrant
31 under subsection (g)(4), disaggregated by age of children served, geography,
32 region, center-based child care setting, and family child care setting, and the
33 average and range of the amounts of the subgrants awarded; and

34 (II) the percentage of all eligible child care providers that are qualified child
35 care providers that received such a subgrant, disaggregated as described in
36 subclause (I); and

37 (v) information concerning how qualified child care providers receiving
38 subgrants under subsection (g)(4) used the subgrant funding received,
39 disaggregated by the allowable uses of funds described in subsection (g)(4)(B).

40 (B) REPORT TO CONGRESS.—Not later than 90 days after receiving the lead agency

1 reports required under subparagraph (A), the Secretary shall make publicly available
2 and provide to the Committee on Health, Education, Labor, and Pensions of the Senate
3 and the Committee on Education and Labor of the House of Representatives a report
4 summarizing the findings of the lead agency reports.

5 (i) Authorization of Appropriations.—There are authorized to be appropriated such sums as
6 may be necessary to carry out the activities under this Act.
7