

116TH CONGRESS
2D SESSION

S. _____

To provide for grants to support the provision of child care by reopening
and maintaining the operation of child care programs.

IN THE SENATE OF THE UNITED STATES

Ms. ERNST introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To provide for grants to support the provision of child care
by reopening and maintaining the operation of child care
programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. BACK TO WORK CHILD CARE GRANTS.**

7 (a) PURPOSE.—The purpose of this section is to sup-
8 port the recovery of the United States economy by pro-
9 viding assistance to aid in reopening child care programs,
10 and maintaining the availability of child care in the United

1 States, so that parents can access safe care and return
2 to work.

3 (b) DEFINITIONS.—In this section:

4 (1) COVID–19 PUBLIC HEALTH EMERGENCY.—

5 The term “COVID–19 public health emergency”
6 means the public health emergency declared by the
7 Secretary of Health and Human Services under sec-
8 tion 319 of the Public Health Service Act (42
9 U.S.C. 247d) on January 31, 2020, with respect to
10 COVID–19, including any renewal of such declara-
11 tion.

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

14 (A) an eligible child care provider as de-
15 fined in section 658P(6)(A) of the Child Care
16 and Development Block Grant Act of 1990 (42
17 U.S.C. 9858n(6)(A)); and

18 (B) a child care provider that—

19 (i) is license-exempt and operating le-
20 gally in the State;

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

23 (iii) satisfies State and local require-
24 ments, including those referenced in sec-
25 tion 658E(c)(2)(I) of the Child Care and

1 Development Block Grant Act of 1990
2 ((42 U.S.C. 9858c)(c)(2)(I)).

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

8 (4) LEAD AGENCY.—The term “lead agency”
9 has the meaning given the term in section 658P of
10 the Child Care and Development Block Grant Act of
11 1990 (42 U.S.C. 9858n).

12 (5) QUALIFIED CHILD CARE PROVIDER.—The
13 term “qualified child care provider” means an eligi-
14 ble child care provider with an application approved
15 under subsection (g) for the program involved.

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

18 (7) STATE.—The term “State” has the mean-
19 ing given the term in section 658P of the Child Care
20 and Development Block Grant Act of 1990 (42
21 U.S.C. 9858n).

22 (c) GRANTS FOR CHILD CARE PROGRAMS.—From
23 the funds appropriated to carry out this section, the Sec-
24 retary shall make Back to Work Child Care grants to
25 States, Indian tribes, and tribal organizations, that submit

1 notices of intent to provide assurances under subsection
2 (d)(2). The grants shall provide for subgrants to qualified
3 child care providers, for a transition period of not more
4 than 9 months to assist in paying for fixed costs and in-
5 creased operating expenses due to COVID–19, and to re-
6 enroll children in an environment that supports the health
7 and safety of children and staff.

8 (d) PROCESS FOR ALLOCATION OF FUNDS.—

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

19 (2) NOTICE OF INTENT.—Not later than 14
20 days after issuance of a notice of funding allocations
21 under paragraph (1), a State, Indian tribe, or tribal
22 organization that seeks such a grant shall submit to
23 the Secretary a notice of intent to provide assur-
24 ances for such grant. The notice of intent shall in-
25 clude a certification that the State, Indian tribe, or

1 tribal organization will repay the grant funds if such
2 State, Indian tribe, or tribal organization fails to
3 provide assurances that meet the requirements of
4 subsection (f) or to comply with such an assurance.

5 (3) GRANTS TO LEAD AGENCIES.—The Sec-
6 retary may make grants under subsection (c) to the
7 lead agency of each State, Indian tribe, or tribal or-
8 ganization, upon receipt of the notice of intent to
9 provide assurances for such grant.

10 (4) PROVISION OF ASSURANCES.—Not later
11 than 15 days after receiving the grant, the State, In-
12 dian tribe, or tribal organization shall provide assur-
13 ances that meet the requirements of subsection (f).

14 (e) FEDERAL RESERVATION; ALLOTMENTS AND PAY-
15 MENTS.—

16 (1) RESERVATION.—The Secretary shall reserve
17 not more than 1 percent of the amount appropriated
18 to carry out this section to pay for the costs of the
19 Federal administration of this section. The amount
20 appropriated to carry out this section and reserved
21 under this paragraph shall remain available through
22 fiscal year 2021.

23 (2) ALLOTMENTS AND PAYMENTS.—The Sec-
24 retary shall use the remaining portion of such
25 amount to make allotments and payments, to States,

1 Indian tribes, and tribal organizations that submit
2 such a notice of intent to provide assurances, in ac-
3 cordance with paragraphs (1) and (2) of subsection
4 (a), and subsection (b), of section 6580 of the Child
5 Care and Development Block Grant Act of 1990 (42
6 U.S.C. 9858m), for the grants described in sub-
7 section (c).

8 (f) ASSURANCES.—A State, Indian tribe, or tribal or-
9 ganization that receives a grant under subsection (c) shall
10 provide to the Secretary assurances that the lead agency
11 will—

12 (1) require as a condition of subgrant funding
13 under subsection (g) that each eligible child care
14 provider applying for a subgrant from the lead agen-
15 cy—

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

20 (B) agree to follow all applicable State,
21 local, and tribal health and safety requirements
22 and, if applicable, enhanced protocols for child
23 care services and related to COVID–19 or an-
24 other health or safety condition;

1 (C) agree to comply with the documenta-
2 tion and reporting requirements under sub-
3 section (h); and

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

15 (2) ensure eligible child care providers in urban,
16 suburban, and rural areas can readily apply for and
17 access funding under this section, which shall in-
18 clude the provision of technical assistance either di-
19 rectly or through resource and referral agencies or
20 staffed family child care provider networks;

21 (3) ensure that subgrant funds are made avail-
22 able to eligible child care providers regardless of
23 whether the eligible child care provider is providing
24 services for which assistance is made available under
25 the Child Care and Development Block Grant Act of

1 1990 (42 U.S.C. 9857 et seq.) at the time of appli-
2 cation for a subgrant;

3 (4) through at least December 31, 2020, con-
4 tinue to expend funds provided under the Child Care
5 and Development Block Grant Act of 1990 (42
6 U.S.C. 9857 et seq.) for the purpose of continuing
7 payments and assistance to qualified child care pro-
8 viders on the basis of tiered reimbursements prior to
9 March 2020;

10 (5) undertake a review of burdensome State,
11 local, and tribal regulations and requirements that
12 hinder the opening of new licensed child care pro-
13 grams to meet the needs of the working families in
14 the State or tribal community, as applicable;

15 (6) make available to the public, which shall in-
16 clude, at a minimum, posting to an internet website
17 of the lead agency—

18 (A) notice of funding availability through
19 subgrants for qualified child care providers
20 under this section; and

21 (B) the criteria for awarding subgrants for
22 qualified child care providers, including the
23 methodology the lead agency used to determine
24 and disburse funds in accordance with subpara-
25 graphs (D) and (E) of subsection (g)(4); and

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

5 (g) LEAD AGENCY USE OF FUNDS.—

6 (1) IN GENERAL.—A lead agency that receives
7 a Back to Work Child Care grant under this sec-
8 tion—

9 (A) shall use a portion that is not less
10 than 94 percent of the grant funds to award
11 subgrants to qualified child care providers as
12 described in the lead agency's assurances pur-
13 suant to subsection (f);

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

16 (i) use not less than 1 percent of the
17 funds to provide technical assistance and
18 support in applying for and accessing
19 funding through such subgrants to eligible
20 child care providers, including to rural pro-
21 viders, family child care providers, and
22 providers with limited administrative ca-
23 pacity; and

24 (ii) use the remainder of the reserved
25 funds to—

1 (I) administer subgrants to quali-
2 fied child care providers under para-
3 graph (4), which shall include moni-
4 toring the compliance of qualified
5 child care providers with applicable
6 State, local, and tribal health and
7 safety requirements; and

8 (II) comply with the reporting
9 and documentation requirements de-
10 scribed in subsection (h); and

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

14 (ii) may make multiple subgrants to a
15 qualified child care provider, if the lead agency
16 makes each subgrant individually for 1 child
17 care program operated by the provider and the
18 funds from the multiple subgrants are not
19 pooled for use for more than 1 of the programs.

20 (2) ROLE OF THIRD PARTY.—The lead agency
21 may designate a third party, such as a child care re-
22 source and referral agency, to carry out the respon-
23 sibilities of the lead agency, and oversee the activi-
24 ties conducted by qualified child care providers
25 under this subsection.

1 (3) OBLIGATION AND RETURN OF FUNDS.—

2 (A) OBLIGATION.—

3 (i) IN GENERAL.—The lead agency
4 shall obligate at least 50 percent of the
5 grant funds in the portion described in
6 paragraph (1)(A) for subgrants to quali-
7 fied child care providers by the day that is
8 6 months after the date of enactment of
9 this Act.

10 (ii) WAIVERS.—At the request of a
11 State, Indian tribe, or tribal organization,
12 and for good cause shown, the Secretary
13 may waive the requirement under clause (i)
14 for the State, Indian tribe, or tribal orga-
15 nization.

16 (B) RETURN OF FUNDS.—Not later than
17 the date that is 12 months after a grant is
18 awarded to a lead agency in accordance with
19 this section, the lead agency shall return to the
20 Secretary any of the grant funds that are not
21 obligated by the lead agency by such date. The
22 Secretary shall return any funds received under
23 this subparagraph to the Treasury of the
24 United States.

25 (4) SUBGRANTS.—

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

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

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

16 (ii) recruiting, retaining, and compen-
17 sating child care staff, including providing
18 professional development to the staff re-
19 lated to child care services and applicable
20 State, local, and tribal health and safety
21 requirements and, if applicable, enhanced
22 protocols for child care services and related
23 to COVID–19 or another health or safety
24 condition;

1 (iii) paying for fixed operating costs
2 associated with providing child care serv-
3 ices, including the costs of payroll, the con-
4 tinuation of existing (as of March 1, 2020)
5 employee benefits, mortgage or rent, utili-
6 ties, and insurance;

7 (iv) acquiring equipment and supplies
8 (including personal protective equipment)
9 necessary to provide child care services in
10 a manner that is safe for children and
11 staff in accordance with applicable State,
12 local, and tribal health and safety require-
13 ments;

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

17 (vi) making facility changes and re-
18 pairs to address enhanced protocols for
19 child care services related to COVID–19 or
20 another health or safety condition, to en-
21 sure children can safely occupy a child care
22 facility;

23 (vii) purchasing or updating equip-
24 ment and supplies to serve children during
25 nontraditional hours;

1 (viii) adapting the child care program
2 or curricula to accommodate children who
3 have not had recent access to a child care
4 setting;

5 (ix) carrying out any other activity re-
6 lated to the child care program of a quali-
7 fied child care provider; and

8 (x) reimbursement of expenses in-
9 curred before the provider received a
10 subgrant under this paragraph, if the use
11 for which the expenses are incurred is de-
12 scribed in any of clauses (i) through (ix)
13 and is disclosed in the subgrant application
14 for such subgrant.

15 (C) SUBGRANT APPLICATION.—To be
16 qualified to receive a subgrant under this para-
17 graph, an eligible child care provider shall sub-
18 mit an application to the lead agency in such
19 form and containing such information as the
20 lead agency may reasonably require, includ-
21 ing—

22 (i) a budget plan that includes—

23 (I) information describing how
24 the eligible child care provider will use
25 the subgrant funds to pay for fixed

1 costs and increased operating ex-
2 penses, including, as applicable, pay-
3 roll, employee benefits, mortgage or
4 rent, utilities, and insurance, de-
5 scribed in subparagraph (B)(iii);

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

12 (III) child care enrollment, at-
13 tendance, and revenue projections
14 based on current operating capacity
15 and previous enrollment and revenue
16 for the period described in subclause
17 (II); and

18 (IV) a demonstration of how the
19 subgrant funds will assist in pro-
20 moting the long-term viability of the
21 eligible child care provider and how
22 the eligible child care provider will
23 sustain its operations after the ces-
24 sation of funding under this section;

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

3 (I) report to the lead agency, be-
4 fore every month for which the
5 subgrant funds are to be received,
6 data on current financial characteris-
7 tics, including revenue, and data on
8 current average enrollment and at-
9 tendance;

10 (II) not artificially suppress rev-
11 enue, enrollment, or attendance for
12 the purposes of receiving subgrant
13 funding;

14 (III) provide the necessary docu-
15 mentation under subsection (h) to the
16 lead agency, including providing docu-
17 mentation of expenditures of subgrant
18 funds; and

19 (IV) implement all applicable
20 State, local, and tribal health and
21 safety requirements and, if applicable,
22 enhanced protocols for child care serv-
23 ices and related to COVID-19 or an-
24 other health or safety condition; and

1 (iii) a certification in good faith that
2 the child care program will remain open
3 for not less than 1 year after receiving a
4 subgrant under this paragraph, unless
5 such program is closed due to extraor-
6 dinary circumstances described in sub-
7 section (f)(1)(D).

8 (D) SUBGRANT DISBURSEMENT.—In pro-
9 viding funds through a subgrant under this
10 paragraph—

11 (i) the lead agency shall—

12 (I) disburse such subgrant funds
13 to a qualified child care provider in
14 installments made not less than once
15 monthly;

16 (II) disburse a subgrant install-
17 ment for a month after the qualified
18 child care provider has provided, be-
19 fore that month, the enrollment, at-
20 tendance, and revenue data required
21 under subparagraph (C)(ii)(I) and, if
22 applicable, current operating capacity
23 data required under subparagraph
24 (C)(i)(II); and

1 (III) make subgrant installments
2 to any qualified child care provider for
3 a period of not more than 9 months;
4 and

5 (ii) the lead agency may, notwith-
6 standing subparagraph (E)(i), disburse an
7 initial subgrant installment to a provider
8 in a greater amount than that subpara-
9 graph provides for, and adjust the suc-
10 ceeding installments, as applicable.

11 (E) SUBGRANT INSTALLMENT AMOUNT.—

12 The lead agency—

13 (i) shall determine the amount of a
14 subgrant installment under this paragraph
15 by basing the amount on—

16 (I)(aa) at a minimum, the fixed
17 costs associated with the provision of
18 child care services by a qualified child
19 care provider; and

20 (bb) at the election of the lead
21 agency, an additional amount deter-
22 mined by the State, for the purposes
23 of assisting qualified child care pro-
24 viders with, as applicable, increased
25 operating costs and lost revenue, asso-

1 ciated with the COVID–19 public
2 health emergency; and

3 (II) any other methodology that
4 the lead agency determines to be ap-
5 propriate, and which is disclosed in
6 reporting submitted by the lead agen-
7 cy under subsection (f)(6)(B);

8 (ii) shall ensure that, for any period
9 for which subgrant funds are disbursed
10 under this paragraph, no qualified child
11 care provider receives a subgrant install-
12 ment that when added to current revenue
13 for that period exceeds the revenue for the
14 corresponding period 1 year prior; and

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

19 (F) REPAYMENT OF SUBGRANT FUNDS.—
20 A qualified child care provider that receives a
21 subgrant under this paragraph shall be required
22 to repay the subgrant funds if the lead agency
23 determines that the provider fails to provide the
24 assurances described in subparagraph

1 (C)(ii)(II), or to comply with such an assur-
2 ance.

3 (5) SUPPLEMENT NOT SUPPLANT.—Amounts
4 made available to carry out this section shall be used
5 to supplement and not supplant other Federal,
6 State, tribal, and local public funds expended to pro-
7 vide child care services, including funds provided
8 under the Child Care and Development Block Grant
9 Act of 1990 (42 U.S.C. 9857 et seq.) and State and
10 tribal child care programs.

11 (h) DOCUMENTATION AND REPORTING REQUIRE-
12 MENTS.—

13 (1) DOCUMENTATION.—A State, Indian tribe,
14 or tribal organization receiving a grant under sub-
15 section (c) shall provide documentation of any State
16 or tribal expenditures from grant funds received
17 under subsection (c) in accordance with section
18 658K(b) of the Child Care Development Block
19 Grant Act of 1990 (42 U.S.C. 9858i(b)), and to the
20 independent entity described in that section.

21 (2) REPORTS.—

22 (A) LEAD AGENCY REPORT.—A lead agen-
23 cy receiving a grant under subsection (c) shall,
24 not later than 12 months after receiving such
25 grant, submit a report to the Secretary that in-

1 includes for the State or tribal community in-
2 volved a description of the program of sub-
3 grants carried out to meet the objectives of this
4 section, including—

5 (i) a description of how the lead agen-
6 cy determined—

7 (I) the criteria for awarding sub-
8 grants for qualified child care pro-
9 viders, including the methodology the
10 lead agency used to determine and
11 disburse funds in accordance with
12 subparagraphs (D) and (E) of sub-
13 section (g)(4); and

14 (II) the types of providers that
15 received priority for the subgrants, in-
16 cluding considerations related to—

17 (aa) setting;

18 (bb) average monthly reve-
19 nues, enrollment, and attendance,
20 before and during the COVID-19
21 public health emergency and
22 after the expiration of State,
23 local, and tribal stay-at-home or-
24 ders; and

1 (cc) geographically based
2 child care service needs across
3 the State or tribal community;
4 and

5 (ii) the number of eligible child care
6 providers in operation and serving children
7 on March 1, 2020, and the average num-
8 ber of such providers for March 2020 and
9 each of the 11 months following,
10 disaggregated by age of children served,
11 geography, region, center-based child care
12 setting, and family child care setting;

13 (iii) the number of child care slots, in
14 the capacity of a qualified child care pro-
15 vider given applicable group size limits and
16 staff-to-child ratios, that were open for at-
17 tendance of children on March 1, 2020,
18 the average number of such slots for
19 March 2020 and each of 11 months fol-
20 lowing, disaggregated by age of children
21 served, geography, region, center-based
22 child care setting, and family child care
23 setting;

24 (iv)(I) the number of qualified child
25 care providers that received a subgrant

1 under subsection (g)(4), disaggregated by
2 age of children served, geography, region,
3 center-based child care setting, and family
4 child care setting, and the average and
5 range of the amounts of the subgrants
6 awarded; and

7 (II) the percentage of all eligible child
8 care providers that are qualified child care
9 providers that received such a subgrant,
10 disaggregated as described in subclause
11 (I); and

12 (v) information concerning how quali-
13 fied child care providers receiving sub-
14 grants under subsection (g)(4) used the
15 subgrant funding received, disaggregated
16 by the allowable uses of funds described in
17 subsection (g)(4)(B).

18 (B) REPORT TO CONGRESS.—Not later
19 than 90 days after receiving the lead agency re-
20 ports required under subparagraph (A), the
21 Secretary shall make publicly available and pro-
22 vide to the Committee on Health, Education,
23 Labor, and Pensions of the Senate and the
24 Committee on Education and Labor of the

1 House of Representatives a report summarizing
2 the findings of the lead agency reports.

3 (i) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out the activities under this Act.