

Comparing the base document H.R. 7027, as introduced, with the Rules Committee Print 116-58.

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The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely:

## **Title I—Department of Health and Human Services**

### **Sec. 1. Child Care Stabilization Fund.—**

(a) DEFINITIONS.— In this section:

(1) CCDBG TERMS.— The terms "eligible child care provider", "Indian tribe", "lead agency", "tribal organization", "Secretary", and "State" have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) except as otherwise provided in this section.

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

(b) GRANTS.— From the amounts appropriated to carry out this section and under the authority of section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) and this section, the Secretary shall award child care stabilization grants to the lead agency of each State (as defined in that section 658O), territory described in subsection (a)(1) of such section, Indian tribe, and tribal organization from allotments and payments made under subsection (c)(2), not later than 30 days after the date of enactment of this Act.

(c) SECRETARIAL RESERVATION AND ALLOTMENTS.—

(1) RESERVATION.— The Secretary shall reserve not more than 1 percent of the funds appropriated to carry out this section for the Federal administration of grants described in subsection (b).

(2) ALLOTMENTS.— The Secretary shall use the remainder of the funds appropriated to carry out this section to award allotments to States, as defined in section 658O of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858m), and payments to territories, Indian tribes, and tribal organizations in accordance with paragraphs (1) and (2) of subsection (a), and subsection (b), of section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m).

(d) STATE RESERVATIONS AND SUBGRANTS.—

(1) RESERVATION.— A lead agency for a State that receives a child care stabilization grant pursuant to subsection (b) shall reserve not more than 10 percent of such grant funds—

(A) to administer subgrants made to qualified child care providers under paragraph (2), including to carry out data systems building and other activities that enable the disbursement of payments of such subgrants;

(B) to provide technical assistance and support in applying for and accessing the subgrant opportunity under paragraph (2), to eligible child care providers (including to family child care providers, group home child care providers, and other non-center-based child care providers and providers with limited

administrative capacity), either directly or through resource and referral agencies or staffed family child care networks;

(C) to publicize the availability of subgrants under this section and conduct widespread outreach to eligible child care providers, including family child care providers, group home child care providers, and other non-center-based child care providers and providers with limited administrative capacity, either directly or through resource and referral agencies or staffed family child care networks, to ensure eligible child care providers are aware of the subgrants available under this section;

(D) to carry out the reporting requirements described in subsection (f); and

(E) to carry out activities to improve the supply and quality of child care during and after the COVID-19 public health emergency, such as conducting community needs assessments, carrying out child care cost modeling, making improvements to child care facilities, increasing access to licensure or participation in the State's tiered quality rating system, and carrying out other activities described in section 658G(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e(b)), to the extent that the lead agency can carry out activities described in this subparagraph without preventing the lead agency from fully conducting the activities described in subparagraphs (A) through (D).

(2) SUBGRANTS TO QUALIFIED CHILD CARE PROVIDERS.—

(A) IN GENERAL.— The lead agency shall use the remainder of the grant funds awarded pursuant to subsection (b) to make subgrants to qualified child care providers described in subparagraph (B), to support the stability of the child care sector during and after the COVID-19 public health emergency. The lead agency shall provide the subgrant funds in advance of provider expenditures for costs described in subsection (e), except as provided in subsection (e)(2).

(B) QUALIFIED CHILD CARE PROVIDER.— To be qualified to receive a subgrant under this paragraph, a provider shall be an eligible child care provider that—

- (i) was providing child care services on or before March 1, 2020; and
- (ii) on the date of submission of an application for the subgrant, was either—
  - (I) open and available to provide child care services; or
  - (II) closed due to the COVID-19 public health emergency.

(C) SUBGRANT AMOUNT.— The lead agency shall make subgrants, from amounts awarded pursuant to subsection (b), to qualified child care providers, and the amount of such a subgrant to such a provider shall —

(i) be based on the provider's stated average operating expenses during the period (of not longer than 6 months) before March 1, 2020, *or before the provider's last day of operation for a provider that operates seasonally*, and at minimum cover such operating expenses for the intended length of the subgrant;

(ii) account for increased costs of providing or preparing to provide child care as a result of the COVID-19 public health emergency, such as provider and employee compensation and existing benefits (existing as of March 1, 2020) and the implementation of new practices related to sanitization, group size limits, and social distancing;

(iii) be adjusted for payments or reimbursements made to an eligible child care provider to carry out the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858~~7~~ et seq.) or the Head Start Act (42 U.S.C. 9831 et seq.); and

(iv) be adjusted for payments or reimbursements made to an eligible child care provider through the Paycheck Protection Program set forth in section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)), as added by section 1102 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

(D) APPLICATION.—

(i) ELIGIBILITY.— To be eligible to receive a subgrant under this paragraph, a child care provider shall submit an application to a lead agency at such time and in such manner as the lead agency may require. Such application shall include—

- (I) a good-faith certification that the ongoing operations of the child care provider have been impacted as a result of the COVID-19 public health emergency;

(II) for a provider described in subparagraph (B)(ii)(I), an assurance that, for the duration of the COVID-19 public health emergency—

(aa) the provider will give priority for available slots (including slots that are only temporarily available) to—

(AA) children of essential workers (such as health care sector employees, emergency responders, sanitation workers, farmworkers, child care employees, and other workers determined to be essential during the response to coronavirus by public officials), children of workers whose places of employment require their attendance, children experiencing homelessness, children with disabilities, children at risk of child abuse or neglect, and children in foster care, in States, tribal communities, or localities where stay-at-home or related orders are in effect; or

(BB) children of workers whose places of employment require their attendance, children experiencing homelessness, children with disabilities, children at risk of child abuse or neglect, children in foster care, and children whose parents are in school or a training program, in States, tribal communities, or localities where stay-at-home or related orders are not in effect;

(bb) the provider will implement policies in line with guidance from the Centers for Disease Control and Prevention and the corresponding State, tribal, and local authorities, and in accordance with State, tribal, and local orders, for child care providers that remain open, including guidance on sanitization practices, group size limits, and social distancing;

(cc) for each employee, the provider will pay the full compensation described in subsection (e)(1)(C), including any benefits, that was provided to the employee as of March 1, 2020 (referred to in this clause as "full compensation"), and will not take any action that reduces the weekly amount of the employee's compensation below the weekly amount of full compensation, or that reduces the employee's rate of compensation below the rate of full compensation; and

(dd) the provider will provide relief from copayments and tuition payments for the families enrolled in the provider's program and prioritize such relief for families struggling to make either type of payments;

(III) for a provider described in subparagraph (B)(ii)(II), an assurance that—

(aa) for the duration of the provider's closure due to the COVID-19 public health emergency, for each employee, the provider will pay full compensation, and will not take any action that reduces the weekly amount of the employee's compensation below the weekly amount of full compensation, or that reduces the employee's rate of compensation below the rate of full compensation;

(bb) children enrolled as of March 1, 2020, will maintain their slots, unless their families choose to disenroll the children;

(cc) for the duration of the provider's closure due to the COVID-19 public health emergency, the provider will provide relief from copayments and tuition payments for the families enrolled in the provider's program and prioritize such relief for families struggling to make either type of payments; and

(dd) the provider will resume operations when the provider is able to safely implement policies in line with guidance from the Centers for Disease Control and Prevention and the corresponding State, tribal, and local authorities, and in accordance with State, tribal, and local orders;

(IV) information about the child care provider's—

(aa) program characteristics sufficient to allow the lead agency to establish the child care provider's priority status, as described in subparagraph (F);

(bb) program operational status on the date of submission of the application;

(cc) type of program, including whether the program is a center-based child care, family child care, group home child care, or other non-center-based child care type program;

(dd) total enrollment on the date of submission of the application and total capacity as allowed by the State *and tribal authorities*; and

(ee) receipt of assistance, and amount of assistance, through a payment or reimbursement described in subparagraph (C)(iv), and the time period for which the assistance was made;

(V) information necessary to determine the amount of the subgrant, such as information about the provider's stated average operating expenses over the ~~period before March 1, 2020~~ *appropriate period*, described in subparagraph (C)(i); and

(VI) such other limited information as the lead agency shall determine to be necessary to make subgrants to qualified child care providers.

(ii) FREQUENCY.— The lead agency shall accept and process applications submitted under this subparagraph on a rolling basis.

(iii) UPDATES.— The lead agency shall—

(I) at least once a month, verify by obtaining a self-attestation from each qualified child care provider that received such a subgrant from the agency, whether the provider is open and available to provide child care services or is closed due to the COVID-19 public health emergency;

(II) allow the qualified child care provider to update the information provided in a prior application; and

(III) adjust the qualified child care provider's subgrant award as necessary, based on changes to the application information, including changes to the provider's operational status.

(iv) EXISTING APPLICATIONS.— If a lead agency has established and implemented a grant program for child care providers that is in effect on the date of enactment of this Act, and an eligible child care provider has already submitted an application for such a grant to the lead agency containing the information specified in clause (i), the lead agency shall treat that application as an application submitted under this subparagraph. If an eligible child care provider has already submitted such an application containing part of the information specified in clause (i), the provider may submit to the lead agency an abbreviated application that contains the remaining information, and the lead agency shall treat the 2 applications as an application submitted under this subparagraph.

(E) MATERIALS.—

(i) IN GENERAL.— The lead agency shall provide the materials and other resources related to such subgrants, including a notification of subgrant opportunities and application materials, to qualified child care providers in the most commonly spoken languages in the State.

(ii) APPLICATION.— The application shall be accessible on the website of the lead agency within 30 days after the lead agency receives grant funds awarded pursuant to subsection (b) and shall be accessible to all eligible child care providers, including family child care providers, group home child care providers, and other non-center-based child care providers and providers with limited administrative capacity.

(F) PRIORITY.— In making subgrants under this section, the lead agency shall give priority to qualified child care providers that, prior to or on March 1, 2020—

(i) provided child care during nontraditional hours;

(ii) served dual language learners, children with disabilities, children experiencing homelessness, children in foster care, children from low-income families, or infants and toddlers;

(iii) served a high proportion of children whose families received subsidies under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858~~7~~ et seq.) for the child care; or

(iv) operated in communities, including rural communities, with a low supply of child care.

(G) PROVIDERS RECEIVING OTHER ASSISTANCE.— The lead agency, in determining whether a provider is a qualified child care provider, shall not take into consideration receipt of a payment or reimbursement described in subparagraph (C)(iii) or subparagraph (C)(iv).

(H) AWARDS.— The lead agency shall equitably make subgrants under this paragraph to center-based child care providers, family child care providers, group home child care providers, and other non-center-based child care providers, such that qualified child care providers are able to access the subgrant opportunity under this paragraph regardless of the providers' setting, size, or administrative capacity.

(I) OBLIGATION.— The lead agency shall obligate at least 50 percent of funds available to carry out this section for subgrants described in this paragraph, by December 31, 2020.

(e) USES OF FUNDS.—

(1) IN GENERAL.— A qualified child care provider that receives funds through such a subgrant may use the funds for the costs of—

(A) payroll;

(B) employee benefits, including group health plan benefits during periods of paid sick, medical, or family leave, and insurance premiums;

(C) employee salaries or similar compensation, including any income or other compensation to a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation;

(D) payment on any mortgage obligation;

(E) rent (including rent under a lease agreement);

(F) utilities;

(G) insurance;

(H) providing premium pay for child care providers and other employees who provide services during the COVID–19 public health emergency;

(I) sanitization and other costs associated with cleaning;

(J) personal protective equipment and other equipment necessary to carry out the functions of the child care provider;

(K) training and professional development related to health and safety practices, including the proper implementation of policies in line with guidance from the Centers for Disease Control and Prevention and the corresponding State, *tribal*, and local authorities, and in accordance with State, *tribal*, and local orders;

(L) modifications to child care services as a result of the COVID–19 public health emergency, such as limiting group sizes, adjusting staff-to-child ratios, and implementing other heightened health and safety measures;

(M) mental health supports for children and employees; and

(N) other goods and services necessary to maintain or resume operation of the child care program, or to maintain the viability of the child care provider as a going concern during and after the COVID–19 public health emergency.

(2) REIMBURSEMENT.— The qualified child care provider may use the subgrant funds to reimburse the provider for sums obligated or expended before the date of enactment of this Act for the cost of a good or service described in paragraph (1) to respond to the COVID–19 public health emergency.

(f) REPORTING.—

(1) INITIAL REPORT.— A lead agency receiving a grant under this section shall, within 60 days after making the agency's first subgrant under subsection (d)(2) to a qualified child care provider, submit a report to the Secretary that includes—

(A) data on qualified child care providers that applied for subgrants and qualified child care providers that received such subgrants, including—

(i) the number of such applicants and the number of such recipients;

(ii) the number and proportion of such applicants and recipients that received priority and the characteristic or characteristics of such applicants and recipients associated with the priority;

- (iii) the number and proportion of such applicants and recipients that are—
    - (I) center-based child care providers;
    - (II) family child care providers;
    - (III) group home child care providers; or
    - (IV) other non-center-based child care providers; and
  - (iv) within each of the groups listed in clause (iii), the number of such applicants and recipients that are, on the date of submission of the application—
    - (I) open and available to provide child care services; or
    - (II) closed due to the COVID–19 public health emergency;
  - (B) the total capacity of child care providers that are licensed, regulated, or registered in the State on the date of the submission of the report;
  - (C) a description of—
    - (i) the efforts of the lead agency to publicize the availability of subgrants under this section and conduct widespread outreach to eligible child care providers about such subgrants, including efforts to make materials available in languages other than English;
    - (ii) the lead agency’s methodology for determining amounts of subgrants under subsection (d)(2);
    - (iii) the lead agency’s timeline for disbursing the subgrant funds; and
    - (iv) the lead agency’s plan for ensuring that qualified child care providers that receive funding through such a subgrant comply with assurances described in subsection (d)(2)(D) and use funds in compliance with subsection (e); and
  - (D) such other limited information as the Secretary may require.
- (2) QUARTERLY REPORT.— The lead agency shall, following the submission of such initial report, submit to the Secretary a report that contains the information described in subparagraphs (A), (B), and (D) of paragraph (1) once a quarter until all funds allotted for activities authorized under this section are expended.
- (3) FINAL REPORT.— Not later than 60 days after a lead agency receiving a grant under this section has obligated all of the grant funds (including funds received under subsection (h)), the lead agency shall submit a report to the Secretary, in such manner as the Secretary may require, that includes—
- (A) the total number of eligible child care providers who were providing child care services on or before March 1, 2020, in the State and the number of such providers that submitted an application under subsection (d)(2)(D);
  - (B) the number of qualified child care providers in the State that received funds through the grant;
  - (C) the lead agency’s methodology for determining amounts of subgrants under subsection (d)(2);
  - (D) the average and range of the subgrant amounts by provider type (center-based child care, family child care, group home child care, or other non-center-based child care provider);
  - (E) the percentages of the child care providers that received such a subgrant, that, on or before March 1, 2020—
    - (i) provided child care during nontraditional hours;
    - (ii) served dual language learners, children with disabilities, children experiencing homelessness, children in foster care, children from low-income families, or infants and toddlers;
    - (iii) served a high proportion of children whose families received subsidies under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858Z et seq.) for the child care; and
    - (iv) operated in communities, including rural communities, with a low supply of child care;
  - (F) the number of children served by the child care providers that received such a subgrant, for the duration of the subgrant;
  - (G) the percentages, of the child care providers that received such a subgrant, that are—
    - (i) center-based child care providers;
    - (ii) family child care providers;

- (iii) group home child care providers; or
- (iv) other non-center-based child care providers;

(H) the percentages, of the child care providers listed in subparagraph (G) that are, on the date of submission of the application—

- (i) open and available to provide child care services; or
- (ii) closed due to the COVID–19 public health emergency;
- (I) information about how child care providers used the funds received under such a subgrant;
- (J) information about how the lead agency used funds reserved under subsection (d)(1); and
- (K) information about how the subgrants helped to stabilize the child care sector.

(4) REPORTS TO CONGRESS.—

(A) FINDINGS FROM INITIAL REPORTS.— Not later than 60 days after receiving all reports required to be submitted under paragraph (1), the Secretary shall provide a report to the Committee on Education and Labor of the House of Representatives, to the Committee on Health, Education, Labor and Pensions of the Senate, and to the Committees on Appropriations of the House of Representatives and the Senate, summarizing the findings from the reports received under paragraph (1).

(B) FINDINGS FROM FINAL REPORTS.— Not later than 36 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Education and Labor of the House of Representatives, to the Committee on Health, Education, Labor and Pensions of the Senate, and to the Committees on Appropriations of the House of Representatives and the Senate, summarizing the findings from the reports received under paragraph (3).

(g) SUPPLEMENT NOT SUPPLANT.— Amounts made available to carry out this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide child care services for eligible individuals, including funds provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858~~7~~ et seq.) and State child care programs.

(h) REALLOTMENT OF UNOBLIGATED FUNDS.—

(1) UNOBLIGATED FUNDS.— A State, Indian tribe, or tribal organization shall return to the Secretary any grant funds received under this section that the State, Indian tribe, or tribal organization does not obligate by September 30, 2021.

(2) REALLOTMENT.— The Secretary shall award new allotments and payments, in accordance with subsection (c)(2), to covered States, Indian tribes, or tribal organizations from funds that are returned under paragraph (1) within 60 days of receiving such funds. Funds made available through the new allotments and payments shall remain available to each covered State, Indian tribe, or tribal organization until September 30, 2022.

(3) COVERED STATE, INDIAN TRIBE, OR TRIBAL ORGANIZATION.— For purposes of paragraph (2), a covered State, Indian tribe, or tribal organization is a State, Indian tribe, or tribal organization that received an allotment or payment under this section and was not required to return grant funds under paragraph (1).

(i) EXCEPTIONS.— The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858~~7~~ et seq.), excluding requirements in subparagraphs (C) through (E) of section 658E(c)(3), section 658G, and section 658J(c) of such Act (42 U.S.C. 9858c(c)(3), 9858e, 9858h(c)), shall apply to child care services provided under this section to the extent the application of such Act does not conflict with the provisions of this section. Nothing in this Act shall be construed to require a State, *Indian tribe, or tribal organization* to submit an application, other than the application described in section 658E or 658O(c) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c, 9858m(c)), to receive a grant under this Act.

(j) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.— There is authorized to be appropriated to carry out this Act \$50,000,000,000 for fiscal year 2020.

(2) APPLICATION.— In carrying out the Child Care and Development Block Grant Act of 1990 with funds other than the funds appropriated under paragraph (1), the Secretary shall calculate the amounts of appropriated funds described in subsections (a) and (b) of section 658O of such Act (42 U.S.C. 9858m) by excluding funds appropriated under paragraph (1).

**Sec. 2.**

Each amount appropriated or made available by this Act is in addition to any amounts otherwise appropriated for the fiscal year involved.

**Sec. 3.**

Unless otherwise provided for by this Act, the additional amounts appropriated by this Act to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

This Act may be cited as the "Child Care Is Essential Act".

