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.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. BACK TO WORK CHILD CARE GRANTS.

(a) PURPOSE.—The purpose of this section is to sup-
port the recovery of the United States economy by pro-
viding assistance to aid in reopening child care programs,
and maintaining the availability of child care in the United
States, so that parents can access safe care and return to work.

(b) DEFINITIONS.—In this section:

(1) 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 such declaration.

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

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

(B) a child care provider that—

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

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

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

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—
The terms “Indian tribe” and “tribal organization” 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).

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

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

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

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

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

(d) Process for Allocation of Funds.—

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

(2) Notice of Intent.—Not later than 14 days after issuance of a notice of funding allocations under paragraph (1), a State, Indian tribe, or tribal organization that seeks such a grant shall submit to the Secretary a notice of intent to provide assurances for such grant. The notice of intent shall include a certification that the State, Indian tribe, or
tribal organization will repay the grant funds if such State, Indian tribe, or tribal organization fails to provide assurances that meet the requirements of subsection (f) or to comply with such an assurance.

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

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

(e) FEDERAL RESERVATION; ALLOTMENTS AND PAYMENTS.—

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

(2) ALLOTMENTS AND PAYMENTS.—The Secretary shall use the remaining portion of such amount to make allotments and payments, to States,
Indian tribes, and tribal organizations that submit such a notice of intent to provide assurances, in ac-
cordance 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), for the grants described in sub-
section (c).

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

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

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

(B) agree to follow all applicable State, local, and tribal health and safety requirements and, if applicable, enhanced protocols for child care services and related to COVID–19 or an-
other health or safety condition;
(C) agree to comply with the documentation and reporting requirements under subsection (h); and

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

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

(3) ensure that subgrant funds are made available to eligible child care providers regardless of whether the eligible child care provider is providing services for which assistance is made available under the Child Care and Development Block Grant Act of
through at least December 31, 2020, continue to expend funds provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) for the purpose of continuing payments and assistance to qualified child care providers on the basis of tiered reimbursements prior to March 2020;

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

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

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

(B) the criteria for awarding subgrants for qualified child care providers, including the methodology the lead agency used to determine and disburse funds in accordance with subparagraphs (D) and (E) of subsection (g)(4); and
(7) ensure the maintenance of a delivery system of child care services throughout the State that provides for child care in a variety of settings, including the settings of family child care providers.

(g) LEAD AGENCY USE OF FUNDS.—

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

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

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

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

(ii) use the remainder of the reserved funds to—
(I) administer subgrants to qualified child care providers under paragraph (4), which shall include monitoring the compliance of qualified child care providers with applicable State, local, and tribal health and safety requirements; and

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

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

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

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

(A) Obligation.—

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

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

(B) Return of funds.—Not later than the date that is 12 months after a grant is awarded to a lead agency in accordance with this section, the lead agency shall return to the Secretary any of the grant funds that are not obligated by the lead agency by such date. The Secretary shall return any funds received under this subparagraph to the Treasury of the United States.

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

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

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

(ii) recruiting, retaining, and compensating child care staff, including providing professional development to the staff related to child care services and applicable State, local, and tribal health and safety requirements and, if applicable, enhanced protocols for child care services and related to COVID–19 or another health or safety condition;
(iii) paying for fixed operating costs associated with providing child care services, including the costs of payroll, the continuation of existing (as of March 1, 2020) employee benefits, mortgage or rent, utilities, and insurance;

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

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

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

(vii) purchasing or updating equipment and supplies to serve children during nontraditional hours;
(viii) adapting the child care program or curricula to accommodate children who have not had recent access to a child care setting;

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

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

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

(i) a budget plan that includes—

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

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

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

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

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

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

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

(IV) implement all applicable State, local, and tribal health and safety requirements and, if applicable, enhanced protocols for child care services and related to COVID–19 or another health or safety condition; and
(iii) a certification in good faith that
the child care program will remain open
for not less than 1 year after receiving a
subgrant under this paragraph, unless
such program is closed due to extraor-
dinary circumstances described in sub-
section (f)(1)(D).

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

(i) the lead agency shall—

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

(II) disburse a subgrant install-
ment for a month after the qualified
child care provider has provided, be-
fore that month, the enrollment, at-
tendance, and revenue data required
under subparagraph (C)(ii)(I) and, if
applicable, current operating capacity
data required under subparagraph
(C)(i)(II); and
(III) make subgrant installments
to any qualified child care provider for
a period of not more than 9 months;
and
(ii) the lead agency may, notwith-
standing subparagraph (E)(i), disburse an
initial subgrant installment to a provider
in a greater amount than that subpara-
graph provides for, and adjust the suc-
ceeding installments, as applicable.

(E) SUBGRANT INSTALLMENT AMOUNT.—
The lead agency—
(i) shall determine the amount of a
subgrant installment under this paragraph
by basing the amount on—
(I)(aa) at a minimum, the fixed
costs associated with the provision of
child care services by a qualified child
care provider; and
(bb) at the election of the lead
agency, an additional amount deter-
mined by the State, for the purposes
of assisting qualified child care pro-
viders with, as applicable, increased
operating costs and lost revenue, asso-
associated with the COVID–19 public health emergency; and

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

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

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

(F) Repayment of Subgrant Funds.—A qualified child care provider that receives a subgrant under this paragraph shall be required to repay the subgrant funds if the lead agency determines that the provider fails to provide the assurances described in subparagraph
(C)(ii)(II), or to comply with such an assurance.

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

(h) Documentation and Reporting Requirements.—

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

(2) Reports.—

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

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

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

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

(aa) setting;

(bb) average monthly revenues, enrollment, and attendance, before and during the COVID–19 public health emergency and after the expiration of State, local, and tribal stay-at-home orders; and
(cc) geographically based child care service needs across the State or tribal community; and

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

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

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

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

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

(B) Report to Congress.—Not later than 90 days after receiving the lead agency reports required under subparagraph (A), the Secretary shall make publicly available and provide to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the
House of Representatives a report summarizing the findings of the lead agency reports.

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