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108-37

### CARING FOR CHILDREN ACT OF 2003

APRIL 10, 2003.—Ordered to be printed

Mr. GREGG, from the Committee on Health, Education, Labor, and  
Pensions, submitted the following

## R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany S. 880]

The Committee on Health, Education, Labor, and Pensions, to which was referred the original bill (S. 880) to amend the Caring for Children Act of 2003 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### CONTENTS

	Page
I. Purpose and Summary of the bill .....	1
II. Background and need for legislation .....	2
III. Legislative history and committee action .....	4
IV. Explanation of Legislation and Committee Views .....	4
V. Cost estimate .....	14
VI. Regulatory impact statement .....	16
VII. Legislative Impact .....	17
VIII. Section-by-section analysis .....	17
IX. Additional views .....	27
X. Changes in existing law .....	36

### I. PURPOSE AND SUMMARY OF THE BILL

It is the purpose of the Caring for Children Act of 2003 to renew, improve, and strengthen the Child Care and Development Block Grant Act of 1990 for the next five years. The Caring for Children Act of 2003 is designed to maintain state flexibility and improve access to high quality child care for low income working families.

## II. BACKGROUND AND NEED FOR LEGISLATION

The current system of child care assistance, which is supported by Federal, State, and local funds, is largely a result of Federal legislative activity over the last 14 years. In 1988, the Family Support Act, which at the time represented groundbreaking legislation to reform the Aid to Families with Dependent Children (AFDC) program, for the first time provided a child care entitlement for families on welfare. Originated by the Senate Finance Committee, the Family Support Act created a child care entitlement for AFDC parents who were working, enrolled in job training, or enrolled in an educational program, and for parents needing transitional child care assistance for 12 months after leaving welfare (Transitional Child Care or TCC).

In 1990, two more child care programs were created: the Child Care and Development Block Grant (CCDBG) program under the jurisdiction of the Senate Labor Committee (now renamed the Senate Health, Education, Labor, and Pensions Committee), and the Title IV-A At Risk Child Care program under the jurisdiction of the Senate Finance Committee. Both of these programs were designed to help low income working families and CCDBG was designed to improve the quality of child care as well. Unlike the Family Support Act child care programs, these two new programs were block grants to the States (not individual entitlements) and were not designed to assist welfare families.

In 1996, the four Federal child care programs (the AFDC child care entitlement, the Transitional Child Care entitlement, the IV-A at Risk child care program and the Child Care and Development Block Grant) were consolidated under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The act eliminated the entitlement to child care assistance for parents receiving welfare and for those transitioning from welfare to work. The three Finance Committee programs were consolidated into one funding stream referred to as (mandatory funding) because the funding is specified in law and does not need to compete against other funding in the regular appropriations process. Funding for the Child Care and Development Block Grant (CCDBG) remained under the jurisdiction of the Senate Health, Education, Labor, and Pensions (HELP) Committee and was retained as a discretionary program.

### *Child care funding*

Since 1988, funding for child care has grown dramatically. Federal child care spending through the CCDF has increased by over 175 percent since 1996. Discretionary funding for the Child Care and Development Block Grant has more than doubled in the last five years to \$2.1 billion in fiscal year 2003. Mandatory funding currently is set at \$2.7 billion, for a total of \$4.8 billion.

In addition to Federal dollars provided through mandatory and discretionary funding, States currently may transfer up to 30 percent of their TANF block grant to the Child Care and Development Block Grant. In FY2001 and FY2002, States transferred a total of \$3.8 billion of TANF funds to CCDBG.

States also may spend additional TANF money directly on child care services outside of the CCDBG. In fiscal year 2000, States

spent \$1.4 billion of their TANF grants directly on child care. In fiscal years 2001 and 2002, TANF direct expenditures on child care reached \$1.6 billion in each year.

Expenditure data show that in fiscal year 2001, States spent more than \$7.95 billion in Federal and State money from the Child Care and Development Block Grant (this amount includes spending from the TANF transfers to the CCDBG). In addition, States spent over \$1.7 billion on child care within the TANF system. Therefore, in total, over \$9.66 billion was spent on child care through the CCDBG and TANF in fiscal year 2001, of which \$7.6 billion were Federal funds. As a result of CCDBG, TANF, and State funding of child care, over 2 million children receive child care assistance today.

In addition to the CCDBG, TANF and Social Services Block Grants, which States may use to support child care for low-income families, other Federal programs provide funds for child care and early childhood development. These include Head Start (funded at \$6.5 billion in fiscal year 2002), the Child and Adult Care Food Program (\$1.9 billion), the Individuals with Disabilities Education Act preschool and infant/toddler grants (\$807 million), and, for after-school and weekend activities for school age children, the 21st Century Community Learning Centers (\$1 billion). In total, combined current funding for child care and early education programs is estimated by the Department of Health and Human Services to exceed \$17 billion.

#### *Assistance for low-income working families*

Between 1996 and June 2000, the welfare caseload dropped by 2.3 million families. The majority of welfare leavers are now employed. The share of TANF families working or participating in work-related activities while receiving TANF has soared to nearly 900,000 in fiscal year 1999. Between 1996 and 1999, the number of employed single mothers grew from 1.8 million to 2.7 million. And, according to the Congressional Research Service, there has been a marked increase in single mothers working—from 63.5 percent in 1996 to 73 percent in 2001. Many of these parents need child care assistance to stay employed.

The committee believes that the challenge for Congress this year is to build on the success of the 1996 welfare reform law—and put even more Americans on the path to self reliance and improve the quality of child care. The dramatic increase in the number of women participating in the labor force, and the number of these women who are the sole or primary financial supporters of their children are the most important factors affecting the demand for child care.

Increasingly, the effect of child care on children also has become a significant public issue. Research in the field of child development demonstrates that low-income children can benefit from child care with an early childhood development focus. Therefore, the quality of child care available is important so that all young children are developmentally prepared to enter and succeed in school. The Caring for Children Act strengthens the Federal commitment to foster quality environments and early learning experiences for young children.

Concerns about the supply, quality and affordability of child care for many low income families led to a national debate over the nature and extent of the Nation's child care problems. Federal lawmakers recognized the need to address the accessibility and affordability of child care so that parents could participate in the workforce.

### III. LEGISLATIVE HISTORY AND COMMITTEE ACTION

#### EXECUTIVE SESSION

On April 2, 2003, the committee met in Executive Session to consider the Caring for Children Act of 2003. Three amendments were offered. A technical amendment by Senator Dodd was agreed to on a voice vote; an amendment by Senator Jeffords was offered on his behalf by Senator Dodd. It was later modified and subsequently accepted on a voice vote. An amendment by Senator Edwards to create a \$100 million set aside for children with special needs was defeated on a recorded vote of 10 yeas, 11 nays. The bill as amended was subsequently approved on a voice vote.

### IV. EXPLANATION OF LEGISLATION AND COMMITTEE VIEWS

#### TITLE I—CHILD CARE AND DEVELOPMENT BLOCK GRANT

##### *Overview*

The Caring for Children Act of 2003 reauthorizes the Child Care and Development Block Grant (CCDBG) through 2008 at a level of \$2.3 billion for fiscal year 2004, \$2.5 billion for fiscal year 2005, \$2.7 billion for fiscal year 2006, \$2.9 billion for fiscal year 2007, and \$3.1 billion for fiscal year 2008. The current 2003 appropriation is \$2.1 billion.

##### *Program goals*

The Caring for Children Act amends the existing goals to emphasize that the Block grant is intended to serve both low income working families who receive cash assistance and those who do not. It continues to provide states maximum flexibility in developing child care programs and policies and promotes parental choice so that parents can select the type of child care and setting that they prefer.

The legislation creates three new goals: (1) to assist States in improving the quality of child care available to families; (2) to promote school preparedness by encouraging children, families and caregivers to engage in developmentally and age appropriate activities in child care settings that will improve children's social, emotional and behavioral skills and foster their early cognitive, prereading and language development; and (3) to promote parental and family involvement in the education of their young children in child care settings.

The new goals that have been added to encourage States to improve the quality of child care and to promote cognitive development and school readiness are consistent with the President's new early childhood education initiative, Good Start, Grow Smart, designed to address the cognitive and other developmental needs of young children so that they are prepared to enter and succeed in school.

*Lead agency*

The committee bill amends the act to let States designate a collaborative agency or establish a joint interagency office to serve as the lead agency responsible for administering the program.

*State plan requirements*

The Caring for Children Act modifies the State plan in several ways. The legislation asks States to collect and disseminate information to both parents of eligible children and child care providers about: the quality and availability of child care services; resources to assist families in obtaining child care; research and best practices on children's development; and, other programs and services for which families may be eligible, including the food stamp, WIC, Medicaid and SCHIP programs.

This legislation requires States to describe partnerships between public and private entities that will increase the supply and quality of child care services, and coordination of child care services provided by this act with other child care and early childhood education programs, such as Head Start, Early Reading First, Even Start, and State-sponsored prekindergarten.

Beginning in 2004, State plans will contain the outline of the state's strategy to address the quality of child care available to children in that State. States will report on the use of quantifiable, objective measures for evaluating the quality of child care services and progress in improving child care quality.

Finally, States are asked to address factors that can make finding care difficult for some parents. States will report how the state is working to meet the child care needs of parents eligible for assistance who have children with special needs, work non-traditional hours, or require infant and toddler care.

The intent of the language in this section is to ensure that state re-determination policies do not interfere with parents' ability to maintain employment while maintaining their eligibility for assistance. The committee encourages States to explore approaches to eligibility redetermination that support the work schedules of families receiving assistance, such as: the provision of extended office hours (including office hours before 8 a.m., after 6 p.m., or on the weekend); and the use of postal mail or electronic communications such as communications by telephone, fax, or electronic mail, and provision of a receipt providing confirmation that required documents have been submitted.

*Application and State plan requirements*

Under current law, each State that applies for a Federal block grant is required to submit a State plan to the Secretary of the Department of Health and Human Services. The State plan is designed to ensure that States are complying with minimal Federal guidelines before receiving their grant. States are asked to certify that parents have unlimited access to their children while in care and the ability to choose their child's care provider and setting. States also must assure compliance with State licensing, health and safety requirements, address the child care needs of certain population groups, and substantiate that payment rates for child care services are sufficient to ensure equal access to services available to children not eligible for subsidized care.

The Caring for Children Act enhances the State plan in several ways to improve the quality of child care services provided to eligible families. This includes encouraging states to: (1) collect and disseminate information to parents to assist them in making informed child care choices; (2) put in place procedures and policies to protect working parents such as providing assistance for eligible families for not at least 6 months before redetermining eligibility; (3) coordinate this program with other Federal, State and local programs (including Head Start, Early Head Start, Early Reading First, Title I preschool program, Part C of IDEA, State prekindergarten programs and other early childhood education programs); (4) describe any training requirements that are in effect that are designed to enable childcare providers to promote the social, emotional, physical, and cognitive development of children; (5) encourage partnerships with private and other public entities to leverage existing service delivery systems of early childhood and increase the supply and quality of childcare services; (6) address the child care needs of parents eligible for child care services who have children with special needs, work nontraditional hours, or require child care services for infants or toddlers; and (7) inform parents receiving assistance under a program funded under part A of Title IV of the Social Security Act and low-income parents about eligibility for assistance under this subchapter.

Beginning in 2004, State plans will contain the outline of the State's strategy to address the quality of child care available to children in that State. States will report on the use of quantifiable, objective measures for evaluating the quality of child care services and its progress in improving child care quality. The committee does not intend or desire to create any Federal standards for quality of child care and intends for states to have broad discretion in fulfilling these provisions.

#### *Child care resource and referral system*

The Caring for Children Act allows States to use block grant funds to support child care resource and referral organizations. State and local child care resource and referral agencies (CCR&R) are often a community's vital link between parents and child care providers. Most States have in place a comprehensive child care resource and referral network that supports families in finding child care; compiles, analyzes and shares information with parents, providers and communities on the supply, cost, and quality of child care and the availability of child care subsidies; and, supports individuals and programs providing care for children. Child care resource and referral organizations can be a costeffective resource because of their ability to leverage public dollars with contributions from private sources.

#### *Payment rates and market rate surveys*

Under current law, States are required to set payment rates that are sufficient to ensure equal access for eligible children to comparable child care services in the State for children who are not eligible for assistance with Federal guidelines suggesting a goal of reaching the 75th percentile of the market rate.

States use a variety of means to determine and establish reimbursement and payment rates for subsidized child care. According

to the General Accounting Office most States report using the results of market rate surveys to help set these rates but also report considering other factors such as budgets, the age group of the child needing care, and the geographic location of the care. The committee recognizes and intends to maintain the flexibility that States currently have to design and implement payment and reimbursement rates in ways that reflect their particular circumstances.

The Caring for Children Act requires States to conduct a statistically valid and reliable survey of the market rates for child care services in the State within two years preceding the date of submission of the application, although the committee encourages States to conduct their survey as close as possible to the development of the State plan. States must also describe how the State will set payment rates to reflect the results of the market rates survey without reducing the number of families served as of the date of introduction of this act.

The committee bill further requires States to publish the results of the survey within 30 days. Additionally, if in a fiscal year a State receives funds in an amount that exceeds the funds it received in fiscal year 2003 to carry out the CCDBG, the State is encouraged to consider using a portion of the excess to increase payment rates, support the establishment of tiered payment rates or to support payment rate increases for child care for children in communities served by elementary and secondary schools in need of improvement. In addition, the committee encourages States to examine the usual and customary practices with regard to payment for child absentee days.

The committee bill preserves the equal access standard that State payment rates be sufficient to provide children receiving CCDBG funded assistance equal access to comparable child care services available to families which are not financially eligible to receive subsidy assistance. The committee reminds States that a key factor of equal access is determined by the degree to which low income families have access to care that is of comparable quality to other families.

The provision on payment rates differentiation clarifies that nothing in the CCDBG statute is intended to prohibit States from having differentiated payment rates using such factors as geographic location of child care providers, age or particular needs of children (such as children with special needs and children served by child protective services), and care provided during weekends and other nontraditional hours. This provision is not intended to prevent States from developing and implementing differential rates for other appropriate reasons, such as a tiered rate structure which permits higher payments for care with specific quality standards.

The committee intends to maintain flexibility in the ways in which the State gathers information used to inform the process as they set payment and reimbursement rates. The committee recognizes that there are multiple ways States actually survey the child care market. Some do telephone or mailed surveys to a sample of providers, others rely on the data collected by resource and referral agencies in the course of maintaining an accurate data base. Research indicates that both of these approaches can be statistically valid. Additionally, child care markets vary across States based on

population demographics and density, culture, licensing and subsidy policies, provider practices and parent preferences, to name a few. A market rate survey that works in New York may not work in a rural State such as Idaho or Utah. Similarly, in a rural State, there may be little variation in the cost of care across geographic areas and types of care, while in other States, child care center care may cost twice as much in metropolitan as rural areas. In one case, the cost of a more complex survey may be justified, in another case not. Because of these variances, the committee has asked the Secretary to provide technical assistance to States on the design and implementation of statistically valid market rate surveys.

#### *Child care quality*

The Caring for Children Act of 2003 increases from four to six percent the amount of the total block grant that a State must spend on activities to improve the quality of child care provided to eligible families in that State, and establishes permissible uses for those funds. The quality set-aside may be used to support: programs that provide training, education, and other professional development activities to enhance the skills of the child care workforce, including informal caregivers; activities to enhance early learning and foster school readiness; initiatives to increase the retention and compensation of child care providers; and, other activities deemed by the States to improve the quality of child care services (for children up to age 13) provided in the State.

In recognition of the importance of the quality of child care on all aspects of child development, including cognitive development, the bill seeks to emphasize the importance of early childhood development and encourages States to improve the quality of child care.

Knowledge about children's learning has expanded greatly during the past two decades. Research in the neurobiological and behavioral sciences related to young children suggests the importance of the first years of life for healthy brain development. From birth through age five, children rapidly develop the capabilities on which subsequent development builds. In addition to linguistic and cognitive gains, children exhibit dramatic progress in their emotional and social capacities. According to child development expert Dr. T. Berry Brazelton:

A child's experiences in the first months and years of life determine whether he or she will enter school eager to learn or not. By school age, family and caregivers have already prepared the child for success or failure. The community has already helped or hindered the family's capacity to nurture the child's development.

High quality child care involves much more than the essential ingredients of love, nurture, and care. The committee included school preparedness activities as a permissible use to encourage States to invest in initiatives that will help foster children's social and cognitive skills. These skills provide the foundation for school readiness and are easily attainable when young children are exposed to language-rich environments with caregivers who engage them in interactive activities, promote curiosity and challenge children to develop self-confidence and problem-solving skills.



While many of a State's school preparedness activities are likely to be directed at preschool children, such activities also concern younger or older children. A State's responsibilities under CCDBG include providing child care services for children up to age 13 (or, at State option, nineteen when the child is physically or mentally incapable of caring for himself or herself or under court supervision). School preparedness is a continuing process and does not stop simply because a child has entered school.

There is also general agreement among experts that the ways that parents, families and other caregivers relate and respond to a young child directly affect cognitive development. Research suggests that the quality of child care and early education is ultimately dependent on the quality of the relationship between the caregiver and child. Studies indicate that children are more advanced in all realms of development when their parents, teachers or caregivers provide regular verbal and cognitive stimulation, are sensitive and responsive, and give generous amounts of attention and support in safe and healthy environments.

Based on this research, the Caring for Children Act stipulates permissible uses for the quality set-aside to help ensure that States spend their quality allocation on activities that have been proven to improve the quality of child care. Beginning in 2004, States are asked to report how these funds are used.

The committee notes the importance of States evaluating and assessing child care programs in order to ensure their continued high quality and identify and correct weaknesses and has authorized such evaluations and assessments as allowable uses. However, nothing in this section should be construed to require formal testing of pre-school age children.

The committee has allowed States to exercise broad discretion in additional quality activities (such as enforcing compliance with State licensing requirements and State and local health and safety standards) so long as those activities can be directly linked to improving child safety, child-well being, or school preparedness and are capable of being measured for outcomes. This requirement is intended to ensure that States consider the connection between a proposed activity and desired outcome goals, but it is not intended to require States to establish, track, or determine child outcomes in order for a particular activity to be allowable; it is sufficient that the State has determined that measurement of outcomes is possible in relation to child safety, child well-being, or school preparedness. The committee does not require States to actually measure or produce such outcomes in order to support its discretionary quality activities.

#### *Data collection and reporting requirements*

Under current law, lead State agencies are required to collect and submit data regarding the children, families, and child care providers participating in the program on both a quarterly and annual basis. The quarterly report collects disaggregate data for each family receiving child care assistance, and the annual report collects aggregate numbers over the course of a fiscal year.

The committee bill streamlines data requirements so that lead agencies are only required to submit quarterly reports. The fourth quarterly report each year would preserve some of the data ele-

ments formerly required in the annual report. For any new requirements, States would need to begin submitting data 2 years from the date of enactment of the act. The bill provides the Secretary with the authority to grant waivers from the 2 year requirement if a State can show that it has plans to procure a data system.

The bill deletes reporting elements that have proven to be unnecessary: receipt of housing assistance, receipt of food stamps; receipt of “other” assistance programs; and length of subsidy receipt. The bill requires a single data element regarding whether a family receives assistance under TANF or separate maintenance of effort State programs, and clarifies that the cost of child care data element should require both a statement about the amount of the State’s subsidy payment and a separate statement of the amount of the family’s copayment. The bill clarifies that data on the type of care provided to a family should include all those types listed in the subchapter’s definition of eligible child care provider.

New data elements are added: household size, whether the parent reports that the child has an Individualized Education Plan or an Individualized Family Services Plan under the Individuals with Disabilities Education Act, and case closure codes for each family that no longer receives child care assistance under the subchapter.

States will no longer have to report an annualized unduplicated count of the number of children and families served. A requirement to submit data on the manner and number of parents receiving consumer education information is moved to the biennial State plan. In the fourth quarterly report of the year, lead agencies will be required to submit some annual information formerly required in the annual report: the annual number and type of child care providers receiving payments under the subchapter, and the annual number of those payments made by type of child care provider through vouchers, under contracts, or by payment to parent.

The bill would also require States to collect monthly data on the number of children and families that receive child care assistance, submit this information in their quarterly reports, and to post this information on their websites.

#### *Reporting requirements*

Current law requires the Secretary of HHS to file biennial reports to Congress summarizing and analyzing the disaggregate and aggregate data reports that States submit, as well as other relevant information.

The committee bill updates the current requirements for the Secretary to summarize and analyze State collected data on children and families, requiring that starting in April 2004, and then on an annual basis, the Secretary submit reports summarizing and analyzing State data provided on children and families, with regard to activities to improve the quality of child care, and in State plans. The language adds a requirement that the Secretary include information on the supply, demand, and quality of child care, early education, and nonschool-hour programs, and a progress report that describes State progress in meeting the new data requirements, plans for technical assistance to help States meet these requirements, and the explanation of any barriers States are facing in meeting the timeline for reporting on these new requirements. The Secretary must post these reports on the Department of Health

and Human Services website no later than 30 days after submitting them to the relevant congressional committees.

*National activities: Infants and toddlers and child care hotline*

Many States are experiencing problems with access to quality, affordable infant and toddler care. This, combined with the increase in the number of mothers with babies and toddlers in the workforce, makes the need for quality child care even more critical. Approximately 60 percent of mothers with children under age three are in the workforce, at least on a part-time basis.

The committee has included an authorization for a \$100 million set-aside, subject to the availability of appropriations for this purpose. With this authorization, the committee intends that States maintain the flexibility that they have had under appropriations bills since FY 2000, to coordinate activities to enhance infant and toddler child care. States are encouraged to continue to support activities under the set aside that are designed to protect the health and well-being of infants and toddlers; offer specialized training for such providers that emphasizes the unique developmental needs of infants and toddlers; create statewide networks of specialists on infants and toddlers, to provide training and consultations for such providers who are center-based child care providers, group home child care providers, or relatives of the infants and toddlers; and establish local networks of support for family child care home providers and other activities to improve the quality and availability of infant care.

Research indicates that the strongest effects of quality child care are found with at-risk children—children from families with the fewest resources and under the greatest stress. Yet, at-risk babies and toddlers receive some of the poorest quality care that exists in communities across the United States resulting in poorer cognitive, social, and emotional developmental outcomes. Research confirms that most child care centers do not meet infants and toddlers needs for health, safety, nurturing relationships, and learning. A child's first three years are a critical time for child development. Numerous studies show that high quality care improves school readiness and prevents crime in the long-term. It is especially critical that access to high quality infant and toddler care be expanded to allow more parents who must work to leave their children in a safe and nurturing environment while they work.

The committee recognizes the need for a toll free hotline that is assisting families nationwide in accessing local information on child care options and providing consumer education and has authorized \$1 million, subject to the availability of appropriations for such purposes.

*Federal eligibility guidelines and direct services*

The Caring for Children Act eliminates the Federal income limit for eligibility, previously set at 85 percent of the State median income, which included families at both the lowest and more moderate income levels. Across all States 85 percent of SMO for a family of three ranged from \$53,940 a year in Connecticut to \$30,156 in Mississippi for a family of the same size.

Some advocates and lawmakers contend that many potentially eligible children do not receive subsidies due to limited resources.

However, program officials in five of seven States interviewed by the General Accounting Office reported that all families eligible under the State's income criteria who applied for child care assistance were being served.

Additionally, the demand for child care services and the number of eligible families in need of subsidies may be overestimated because not all low-income parents need subsidized child care. In fact, not all parents who receive welfare or are transitioning off welfare are working, and many parents make in-home or other informal care arrangements with friends or relatives instead of applying for child care assistance through the block grant.

Estimates of subsidies needed by children through the Child Care and Development Block Grant and TANF might be reduced further by taking into account the availability of other programs and funding sources serving children, including State-funded pre-kindergarten programs and Head Start. Sixty-five percent of all 3 and 4 year olds eligible for Head Start are enrolled, and it is estimated that 62,000 toddlers are served under the Early Head Start program.

The committee received comments that States might interpret the elimination of a Federal eligibility limit as a suggestion that assistance provided through the block grant should be targeted to TANF families only. This is not the intent of the committee. The legislation amends the CCDBG goals to clarify the congressional intent to provide assistance to low-income working families, not exclusively those on or transitioning off TANF. States and territories must spend 70 percent of their mandatory child care money to subsidize child care for TANF families, families transitioning off TANF, and families at risk of becoming dependent on public assistance.

The Caring for Children Act has included a new requirement that States also must ensure that 70 percent of the State grant is used to provide direct services to low-income working families. Though these services will be defined by the States, the committee intends at a minimum, to include services that are designed to assist families with the purchase of child care from an eligible child care provider such as vouchers for families and contracts and grants with child care providers in the definition of direct services.

#### *Children with special needs*

Families with children with disabilities often have difficulty finding high quality child care for their children. This problem is compounded for many low-income families. Early intervention services for pre-school age children can help identify, address, and sometimes prevent cognitive, physical and emotional disabilities at a young age. Unfortunately, many child care professionals have no experience with disabled children making accessing quality child care for children with special needs a challenge for many families. The committee notes that in addition to the Child Care and Development Block Grant there are several Federal programs that have been designed specifically to respond to the needs of children with special needs. The committee recommends greater collaboration between the CCDBG and these other programs.

The Americans with Disabilities Act (ADA) prevents discrimination against children with disabilities by child care providers and

requires providers to make reasonable accommodations to ensure their participation. The Individuals with Disabilities Education Act (IDEA) has two main programs that provide for specialized services (which may include child care) for young children with disabilities (Part C Early Intervention Program for Infants and Toddlers with Disabilities and Section 619 Pre-School Program). IDEA's Part C supports developmental services for infants and toddlers, up to age three, and their families. More than 230,000 children participated in Part C in 2001. Most of the children who received Part C supports in 2001 were served in their homes or in a child care setting.

IDEA's Section 619 pre-school program provides special education and related services to preschool-aged children with disabilities. More than 598,000 children participated in the IDEA 619 pre-school program in 2001, receiving services in public schools, child care, Head Start, or other settings. A child between the ages of three and five is eligible for Section 619 services if he or she has a disability and needs special education and related services.

To further respond to the child care needs of families with children who have special needs, the committee has included language requiring States to demonstrate how they are addressing the child care needs of parents who have children who have special needs. Additionally, the committee has authorized States to use funds under the quality set-aside to offer training professional development, and educational opportunities for child care providers, and specifically providers who care for children with special needs. The committee recognizes the need of providers to be equipped to offer quality child care services to children with special needs, and believes additional opportunities for specialized training will assist in this effort.

#### TITLE II—ENHANCING SECURITY AT CHILD CARE CENTERS IN FEDERAL FACILITIES

The committee bill includes new requirements to ensure that Federal child care facilities have safe plans of action for children in the case of an emergency. The committee bill directs the Administrator of General Services, the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, the head of a designated entity in the Senate, and the Director of the Administrative Office of the United States Courts to issue regulations for child occupant emergency plans and evacuation procedures, for their respective Federal child care facilities.

The committee feels that administrators of Federal facilities should consider different types of emergencies in designing their action plans and should encourage an informed parent body. Further, the committee feels that it is important to inform parents of children in Federal child care facilities about evacuation procedures and relocation sites, and to ensure that directors of Federal facilities regularly update parental contact information.

#### TITLE III—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

The committee bill includes a short-term, flexible grant program to encourage small businesses to work with other local agencies to provide child care services for employees. The committee recognizes that small businesses play a critical role in providing child care op-

tions to millions of working parents. Unfortunately, small businesses generally do not have the resources required to start up and support a child care center. This grant program takes the necessary steps to ensuring small businesses and other local organizations are able to work together to provide child care for employees.

A consortium of small businesses and other organizations will be eligible for grants for start-up costs, training, scholarships, or other related activities. Businesses will be required to match Federal funds to encourage self-sustaining facilities well into the future. Business must continue to meet State quality and health standards.

## V. COST ESTIMATE

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

#### *Caring for Children Act of 2003*

**Summary:** The Caring for Children Act would amend and reauthorize the Child Care and Development Block Grant (CCDBG) Act of 1990. The Child Care and Development Block Grant program was authorized through 2002 by the CCDBG and is currently authorized through 2003 by the Consolidated Appropriations Resolution, 2003 (Public Law 108–7). The bill also would create one new demonstration grant program and increase set-asides for quality improvements and other activities.

If enacted, the bill would authorize appropriations totaling \$2.3 billion in 2004. Total authorizations under the Caring for Children Act would be \$13.5 billion over the 2004–2008 period. CBO estimates that appropriations of these amounts would result in additional outlays of \$12.2 billion over the 2004–2008 period. Enacting the bill would not affect direct spending or receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). It would increase the authorization of funds for the Child Care and Development Block Grant and increase some of the requirements for using those funds. The bill also would establish a new grant program for states to provide assistance to small business consortia and other entities to increase the availability of child care. The requirements associated with these programs would be conditions of assistance resulting from the state's voluntary participation in the program, and thus, not intergovernmental mandates as defined by UMRA.

**Estimated cost to the Federal Government:** The estimated budgetary impact for the various components of each title under the Caring for Children Act is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority .....	2,086	0	0	0	0	0
Estimated Outlays .....	2,165	819	130	21	0	0
Proposed Changes:						
Title I—Child Care and Development Block Grant Program:						
Authorization Level .....	0	2,300	2,500	2,700	2,900	3,100
Estimated Outlays .....	0	1,472	2,290	2,593	2,814	3,014

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
Title III—Small Business Child Care Grant Program:						
Authorization Level .....	0	30	0	0	0	0
Estimated Outlays .....	0	2	12	9	6	2
Total Proposed Changes:						
Authorization Level .....	0	2,330	2,500	2,700	2,900	3,100
Estimated Outlays .....	0	1,474	2,302	2,602	2,820	3,016
Total Spending Under the Bill:						
Authorization Level <sup>1</sup> .....	2,086	2,330	2,500	2,700	2,900	3,100
Estimated Outlays .....	2,165	2,292	2,432	2,623	2,820	3,016

<sup>1</sup> The 2003 level is the amount appropriated for that year.

Notes.—Components may not sum to totals because of rounding.

Basis of estimate: The Caring for Children Act would authorize funding for the CCDBC program (title I) at specific levels in all years, 2004 through 2008. The Small Business Child Care Grant program (title III) would be authorized at \$30 million total over the five years.

The bill would authorize total appropriations of \$2.3 billion in 2004 and \$13.5 billion over the 2004–2008 period. If the authorized amounts are appropriated, outlays would increase by \$1.5 billion in the first year and by \$12.2 billion over the five-year period. The estimated outlays reflect historical rates of spending for the affected programs or the historical rates of similar programs.

#### *Title I—Child Care and Development Block Grant Act of 1990*

Title I of the bill would reauthorize the CCDBG program currently authorized under the Child Care and Development Block Grant Act. The bill would authorize \$2.3 billion in 2004, \$2.5 billion in 2005, \$2.7 billion in 2006, \$2.9 billion in 2007, and \$3.1 billion in 2008. Funding in 2003 was \$2.086 billion.

The CCDBG program provides funding to states for child care subsidies to low-income families, quality improvement, and other activities. It is one of the two federal funding programs for child care subsidies within a program grouping often referred to as the Child Care and Development Fund. The other program is the Child Care Entitlement to States, a mandatory program that is not affected by the bill.

#### *Title II—Enhancing security at child care centers in Federal facilities*

Title II would direct certain federal officials to develop regulations for enhancing the security and fostering effective disaster plans in child care facilities operated by the federal government. CBO does not expect the regulations would have any significant effects on federal costs. Many of these facilities already have similar security procedures in place, while others are anticipated to implement such measures in the future even without the enactment of further legislation.

#### *Title III—Removal of barriers to increasing the supply of quality child care*

Title III would authorize a total of \$30 million over the 2004–2008 period to create a small business child care demonstration grant program. The program would encourage small businesses to establish and operate child care programs by providing grants to

cover part of the costs of the programs. The grants would go to eligible consortia of small businesses. CBO estimates that outlays would be around \$2 million in 2004 and \$30 million over the 2004–2008 period. The bill specifies that the program would be terminated September 30, 2009.

**Intergovernmental and private-sector impact:** The bill contains no intergovernmental or private-sector mandates as defined in UMRA. It would increase the authorization of funds for the Child Care and Development Block Grant and increase some of the requirements for using those funds. The bill also would establish a new grant program for states to provide assistance to small business consortia and other entities to increase the availability of child care. The requirements associated with these programs would be conditions of assistance resulting from the state's voluntary participation in the program and thus not intergovernmental mandates as defined by UMRA.

**Estimate prepared by:** Federal Costs: Donna Wong; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Kate Bloniarz.

**Estimate approved by:** Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## VI. REGULATORY IMPACT STATEMENT

### A. REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

#### *Impact on individuals and businesses*

In general, the bill provides grants to States to provide child care assistance to low-income working parents. Regulations may be needed to implement these grants in specified areas but do not affect individuals or businesses, unless they choose to participate in providing services under this act.

#### *Impact on personal privacy and paperwork*

The bill provides grants to States to provide child care assistance to low-income working parents, to improve the quality of child care, early learning opportunities and promote school preparedness, and for other purposes. The bill should not increase the amount of personal information and paperwork required.

### B. UNFUNDED MANDATES STATEMENT

According to the Congressional Budget Office, the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). It would increase the authorization of funds for the Child Care and Development Block Grant and increase some of the requirements for using those funds. The bill also would establish a new grant program for States to provide assistance to small business consortia and other entities to increase the availability of child care. The requirements associated with these programs would be conditions of assistance resulting from the State's voluntary participation in the program, and thus, not intergovernmental mandates as defined by UMRA. The bill



places several new requirements and limitations on State programs as conditions of receiving assistance.

#### VII. LEGISLATIVE IMPACT

The committee has determined that there is no legislative impact.

#### VIII. SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Caring for Children Act of 2003”.

##### *Section 2. Table of contents*

##### *Sec. 101. Short title and goals*

This Section modifies the goals of the Child Care and Development Block Grant (CCDBG) in Section 658A(b) to add three new goals: (1) to assist states in improving the quality of child care available to families; (2) to promote school preparedness by encouraging children, families, and caregivers to engage in developmentally appropriate and age-appropriate activities in child care settings that will—(A) improve the children’s social, emotional, and behavioral skills; and (B) foster their early cognitive, pre-reading, and language development; and (3) to promote parental and family involvement in the education of young children in child care settings.

##### *Sec. 102. Authorization of appropriations*

This Section amends Section 658B to authorize \$2,300,000,000 for fiscal year 2004, \$2,500,000,000 for fiscal year 2005, \$2,700,000,000 for fiscal year 2006, \$2,900,000,000 for fiscal year 2007, and \$3,100,000,000 for fiscal year 2008.

##### *Sec. 103. Lead agency*

This Section amends Section 658D of CCDBG by allowing a State receiving funds under this act to designate an agency (which may be an appropriate collaborative agency), or establish a joint inter-agency office to serve as the lead agency for the State under this Act.

##### *Sec. 104. State plan*

Section 658E of CCDBG is amended to require a State receiving funds under this act to collect and disseminate, through resource and referral services and other means, to parents of eligible children, child care providers, and the general public, information regarding (I) the promotion of informed child care choices, including information about the quality and availability of services; (II) research and best practices concerning children’s development, including early cognitive development; (III) the availability of assistance to obtain child care services; and (IV) other programs for which families may be eligible, including the food stamp program, the special supplemental nutrition program for women, infants, and children, the child and adult care food program, and the Medicaid and State children’s health insurance programs. The State must also report to the Secretary the manner in which the

consumer education information described was provided to parents and the number of parents to whom such consumer education information was provided. This Section also requires the State to inform parents receiving assistance under TANF and low-income parents about eligibility for child care assistance.

This Section requires that a State has procedures and policies in place to ensure that working parents are not required to unduly disrupt their employment in order to comply with the State's requirements for eligibility re-determination, and requires that each child that receives assistance will receive such assistance for not less than 6 months before re-determination. This Section also gives states the option to not terminate child care assistance based on a parent's loss of work or cessation of attendance at a job training or educational program without continuing the assistance for not less than 1 month.

This Section requires the State to describe how it will coordinate early child education activities assisted under this act with programs such as Head Start, Early Head Start, Early Reading First, Even Start, Title I preschool, section 619 and part C of IDEA, and other early childhood education programs. A State must also describe any training requirements in effect designed to enable providers under this act to promote the social, emotional, physical, and cognitive development of children. A State must describe how it is encouraging partnerships between states and other public agencies, and private entities, to leverage existing service delivery systems and to increase the supply and quality of services for children ages 0–13. A State must describe how it is addressing the child care needs of eligible parents, who have children with special needs, work nontraditional hours, or require child care services for infants and toddlers.

This Section allows the State to use funds to establish or support a system of local child care resource and referral organizations coordinated by a statewide private, nonprofit, community-based lead child care resource and referral organization to provide parents with information, and consumer education concerning should concern the full range of child care options (including care provided during nontraditional hours and through emergency child care centers). This network may also collect and analyze data on the supply of and demand for child care in political subdivisions within the State; submit reports to the State containing the data and analysis; and work to establish partnerships with public agencies and private entities to increase the supply and quality of child care services.

From amounts provided to a State for a fiscal year, the State shall reserve the minimum amount required for the quality set aside, administration, and other set asides, and from the remainder, use not less than 70% to fund direct services (as defined by the State).

This Section requires the State to develop and conduct a statistically valid and reliable survey of the market rates for child care services in the State (reflecting variations in the cost of child care services by geographic area, type of provider, and age of child) within the 2 years preceding the date of the submission of the application containing the State plan. The State should also detail the results of the market rates survey; describe how the State will

provide for timely payment for child care services, and set payment rates for child care services in accordance with the results of the market rates survey without reducing the number of families in the State receiving assistance (as of the date of introduction of the Caring for Children Act of 2003). The State shall make the results of the survey available to the public no later than 30 days after the completion of the survey. The State plan shall include a certification that the payment rates are sufficient to ensure equal access for eligible children to child care services comparable to child care services in the State or sub-state area provided to children not eligible to receive such child care assistance.

This section includes a rule of construction stating that nothing shall prevent a State from differentiating the payment rates to providers on the basis of geographic location, the age or particular needs of children, and whether the providers provide child care during weekend and other nontraditional hours.

*Sec. 105. Activities to improve the quality of child care*

Section 658G of CCDBG is amended to require each state receiving funds under this act to reserve not less than 6% of the funds provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities that are designed to improve the quality of child care services. This Section requires that funds be used only for:

(A) to develop and implement voluntary guidelines on pre-reading and language skills and activities, that are aligned with State standards for kindergarten through grade 12 or the State's general goals for school preparedness;

(B) support activities and provide technical assistance in Federal, State, and local child care settings to enhance early learning for young children, to promote literacy, and to foster school preparedness;

(C) offer training, professional development, and educational opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching strategies, that are scientifically based and aligned with the social, emotional, physical, and cognitive development of children, including—(i) developing and operating distance learning child care training infrastructures; (ii) developing model technology-based training courses; (iii) offering training for caregivers in informal child care settings; and (iv) offering training for child care providers who care for infants and toddlers and children with special needs;

(D) engage in programs designed to increase the retention and improve the competencies of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and

(F) carry out other activities determined by the State to improve the quality of child care services for which measurement of outcomes relating to improved child safety, child well-being, or school preparedness is possible.

This Section also requires that beginning with FY2004, the State shall submit an annual certification to the Secretary that the State was in compliance with the quality activities described above and describes how the State used quality during that preceding fiscal year. Beginning with FY2004, the State is required to submit an annual report to the Secretary that outlines the strategy the State will use to address the quality of child care in the State, including a description of quantifiable, objective measures that the State will use to evaluate the State's progress in improving the quality of the child care services and a list of State-developed child care services quality targets quantified for such measures. This section requires that beginning with FY2005, the State shall submit a report on its progress in achieving targets for the preceding fiscal year. A State failing to make progress in quality improvements shall submit an improvement plan to the Secretary, and that State shall comply with the improvement plan within 1 year.

Nothing in this act shall be construed to require that the State apply measures for evaluating quality of child care services to specific types of child care providers.

*Sec. 106. Optional priority use of additional funds*

This Section amends Section 658G of CCDBG to require a State receiving funds under this act to consider using a portion of any funds exceeding the amount of funds the State received to carry out this act for FY2003 to support payment rate increases in accordance with the market rate survey results; to support the establishment of tiered payment rates for providers; and to support payment rate increases for care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3)).

This Section also states that nothing in Section 106 shall be construed to require a State to take an action that the State determines would result in a reduction of child care services to families of eligible children.

This Section also defines "payment rate" to mean the rate of State payment or reimbursement to providers for subsidized child care.

*Sec. 107. Reporting requirements*

This Section amends Section 658K to require a State receiving funds under this act to collect, with respect to a family unit receiving assistance under this act, information concerning family income; county of residence; the gender, race, and age of children receiving such assistance; whether the head of the family unit is a single parent; the sources of family income (including employment, including self-employment and assistance under a State program funded under part A of title IV of the Social Security Act and a State program for which states spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act); the type, amount and cost of child care; household size; whether the parent involved reports that the child has an individualized education plan under IDEA and the reason for any termination of benefits under this act (including the child's age exceeding the allowable limit; the family income exceeding the

State eligibility limit; the State recertification or administrative requirements not being met; parent work, training, or education status no longer meeting State requirements; a non income related change in status).

A State shall, on a quarterly basis, submit to the Secretary the information required to be collected and the number of children and families receiving assistance. Information on the number of families receiving the assistance shall also be posted on the website of the State. In the fourth quarterly report of each year, a State shall also submit to the Secretary information on the annual number and type of child care providers that received funding under this act and the annual number of payments made by the State through vouchers, under contracts, or by payment to parents reported by type of child care provider.

A State may comply with the requirement to collect the information through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary. The Secretary shall provide the states with such case sampling plans and data collection procedures as the Secretary determines necessary to produce statistically valid samples of the information. The Secretary may develop and implement procedures for verifying the quality of data submitted by the states.

This Section requires states to comply with the changes in data collection and reporting requirement within 2 years from the date of enactment of this Act. The Secretary of Health and Human Services may grant a waiver to states with plans to procure data systems.

#### *Sec. 108. National activities*

This Section amends Section 658L to require the Secretary to no later than April 30, 2004, and annually thereafter, prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and, not later than 30 days after the date of such submission, post on the Department of Health and Human Services website, a report containing a summary and analysis of the data and information provided to the Secretary in the State reports submitted under sections 658E, 658G(c), and 658K; aggregated statistics on and an analysis of the supply of, demand for, and quality of child care, early education, and non-school hour programs; an assessment and, where appropriate, recommendations for Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States; and a progress report describing the progress of the states in streamlining data reporting, the Secretary's plans and activities to provide technical assistance to states, and an explanation of any barriers to getting data in an accurate and timely manner.

This Section also allows the Secretary to make arrangements with resource and referral organizations, to utilize the child care data system of the resource and referral organizations at the national, State, and local levels, to collect the information required by paragraph (1)(B).

This Section also directs the Secretary to provide technical assistance to states on developing and conducting the State market rates survey.

Under this section, the Secretary is instructed to award grants to states, to improve the quality of and access to child care for infants and toddlers, subject to the availability of appropriations for this purpose. The Secretary shall also award a grant or contract, or enter into a cooperative agreement for the operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials, subject to the availability of appropriations for this purpose.

*Sec. 109. Grants and hotline*

This Section amends Section 658O(a) of the Child Care and Development Block Grant Act to require the Secretary to reserve an amount not to exceed \$100,000,000 for each fiscal year to carry out activities designed to improve the quality of and access to child care for infants and toddlers. The section also requires the Secretary to reserve an amount not to exceed \$1,000,000 to carry out operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials.

*Sec. 110. Definitions*

This Section amends Section 658P of the Child Care and Development Block Grant Act by allowing states to set the income eligibility level for families, with priority given by need as defined by the State. The term ‘child with special needs’ was defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401); and a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.) Section 658P is also amended by redefining “Native Hawaiian organization” as it is defined in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)

*Sec. 111. Rules of construction*

Section 658P is amended to include a rule of construction stating that nothing in this act shall be construed to require a State to impose State child care licensing requirements on any type of early childhood provider, including any such provider who is exempt from State child care licensing requirements on the date of enactment of the Caring for Children Act of 2003.

TITLE II—ENHANCING SECURITY AT CHILD CARE CENTERS IN FEDERAL FACILITIES

*Sec. 201. Definitions*

This Section defines the term “Administrator” as the Administrator of General Services. The term “corresponding child care facility”, used with respect to the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, or the head of a designated entity in the Senate, means a child care facility operated by, or under a contract or licensing agreement with, an office of the House of Representatives, the Library of Congress, or an

office of the Senate, respectively. The term “entity sponsoring”, used with respect to a child care facility, means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

This section defines the term “Executive agency” as defined in section 105 of title 5, United States Code, except that the term— (A) does not include the Department of Defense and the Coast Guard; and (B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B). The term “executive facility”—(A) means a facility that is owned or leased by an Executive agency; and (B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office. The term “Federal agency” means an Executive agency, a legislative office, or a judicial office.

This section also defines the term “judicial facility” means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (5) (B)). The term “judicial office” means an entity of the judicial branch of the Federal Government.

Lastly, this section defines the term “legislative facility” means a facility that is owned or leased by a legislative office. The term “legislative office” means an entity of the legislative branch of the Federal Government.

#### *Sec. 202. Enhancing security*

This section (1) directs the Administrator of General Services to issue regulations for child care facilities, and entities sponsoring child care facilities, in executive facilities; (2) directs the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of a designated entity in the Senate to issue the regulations for corresponding child care facilities, and entities sponsoring the corresponding child care facilities, in legislative facilities; and (3) the Director of the Administrative Office of the United States Courts to issue the regulations described in subsection for child care facilities, and entities sponsoring child care facilities, in judicial facilities.

This Section directs the officers described above to issue regulations that concern matters relating to an occupant emergency plan and evacuations, such as providing for building security Committee membership for each director of a child care facility; establishing a separate section in an occupant emergency plan for a facility; promoting familiarity with procedures and evacuation routes for different types of emergencies; strengthening onsite relationships between security personnel and the personnel of such a facility; providing specific, clear, and concise evacuation instructions for a facility; providing for good evacuation equipment, especially cribs; and promoting the ability to evacuate without outside assistance; and

This Section also directs the above officers to issue regulations that concern matters relating to relocation sites, such as promoting an informed parent body that is knowledgeable about evacuation procedures and relocation sites; providing regularly updated parent contact information (regarding matters such as names, locations, electronic mail addresses, and cell phone and other telephone numbers); establishing remote telephone contact for parents, to and

from areas that are not less than 10 miles from such a facility; and providing for an alternate site (in addition to regular sites) in the event of a catastrophe, which site may include—(i) a site that would be an unreasonable distance from the facility under normal circumstances; and (ii) a facility with 24-hour operations, such as a hotel or law school library.

### TITLE III—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

#### *Sec. 301. Small business child care grant program*

This section requires the Secretary of Health and Human Services to establish a program to award grants to states, on a competitive basis, to assist states in providing funds to encourage the establishment and operation of employer-operated child care programs. The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all states receiving grants under this section.

This section allows a State to use awarded funds to provide assistance to a consortium of a small business and other appropriate entities located in the State to enable the small businesses to establish and operate child care programs. Such assistance may include the acquisition, construction, renovation, and operation of child care facilities and equipment; technical assistance in the establishment of a child care program; assistance for the startup costs related to a child care program; assistance for the training of child care providers; scholarships for low-income wage earners; the provision of services to care for sick children or to provide care to school-aged children; the entering into of contracts with local resource and referral or local health departments; assistance for care for children with disabilities; or assistance for any other activity determined appropriate by the State (including loans, grants, investment guarantees, interest subsidies, or other mechanisms to expand the availability of, and improve the quality of, employer-operated child care in the State).

A consortium is required by this section to apply to the State for grants. A State is required to give priority to a consortium that desires to provide child care in a geographic area within the State where such care is not generally available or accessible. A State may not provide in excess of \$500,000 in assistance from such funds to any single applicant.

To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a consortium receiving assistance from the State to carry out activities under this section—the consortium will make available non-Federal contributions to such costs in an amount equal to—(A) for the first fiscal year in which the consortium receives such assistance, not less than 50 percent of such costs; (B) for the second fiscal year in which the consortium receives such assistance, not less than 662.3 percent of such costs; and (C) for the third fiscal year in which the consortium receives such assistance, not less than 75 percent of such costs; and

(2) the consortium will make the contributions available—(A) directly or through donations from public or private entities; and (B)



as determined by the State, in cash or in kind, fairly evaluated, including plant, equipment, or services.

To be eligible to receive assistance under a grant awarded under this section, a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

A State may not retain more than 3 percent of awarded funds for State administration and other State-level activities. The Secretary requires that the State has responsibility for administering the awarded grant under this section and for monitoring consortia that receive assistance under such grant. Each State shall require each consortium receiving assistance under the grant awarded to conduct an annual audit with respect to the activities of the consortium. Such audits shall be submitted to the State. If the State determines, through an audit or otherwise, that a consortium has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a consortium the repayment of an amount equal to the amount of any such misused assistance plus interest.

This section requires the Secretary to by regulation provide for an appeals process with respect to repayments under this paragraph.

This section requires the Secretary to conduct a study not later than 2 years after the date on which the Secretary first awards grants under this section to determine the capacity of consortia to meet the child care needs of communities within states; the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and who is using the programs funded under this section and the income levels of such individuals.

This Section requires the Secretary to prepare and submit to the appropriate Committees of Congress not later than 28 months after the date on which the Secretary first awards grants under this section, a report on the results of the study conducted in accordance with subparagraph (A).

This Section requires that not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through consortia that received assistance through a grant awarded under this section and that remain in operation and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

This Section requires that not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate Committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

As defined by this section, the term “consortium” means 2 or more entities that—include at least 1 small business; and may include other small businesses, nonprofit agencies or community development corporations, local governments, or other appropriate entities. The term “small business” as defined by this section is an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

This section authorizes \$30,000,000 for the period of fiscal years 2004 through 2008 to carry out the grant program. With respect to the total amount appropriated for such period in accordance with this subsection, not more than \$2,500,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section. The grant program established by this section shall terminate on September 30, 2009.

## IX. ADDITIONAL VIEWS

While we support the Caring for Children Act and were pleased to work with the majority in drafting bipartisan legislation, there are a few areas in the report where we would like to clarify the basis of our views and support.

### *Federal funds for child care and early education*

It is true that \$17 billion is currently spent by the federal government on child care and early child development, however, many of the programs mentioned in the report do not provide child care services. In short, they are simply not child care, they are not designed to meet the needs of working parents, and they are services provided regardless of a parent's work status. Head Start, the Child and Adult Care Food Program, IDEA preschool and Part C infant and toddler grants, and the 21st Century Community Learning Centers program do not fund child care services. These programs provide critical services, but each of these programs targets different children for different purposes. None pay for the cost of child care.

Head Start is not child care. There is no requirement for Head Start parents to be working. Assistant Secretary Wade Horn said before the Senate Finance Committee in March of 2002, "I agree that Head Start is not child care." In response to questions, Dr. Horn agreed that of the 800,000 or so children in Head Start, about 450,000 of them needed child care in addition to Head Start. Most Head Start programs and state pre-kindergarten programs are part day. The short hours of part-day programs can be a challenge for working poor families who work full-time. For families working part-time, the hours of operation may not correspond to parent work schedules. The Congressional Budget Office estimates that an additional \$500 million per year would be necessary to meet the needs of current Head Start parents who report that they need child care, but are not provided assistance.

While it is true that during the time a child spends in Head Start, child care services are not needed, it is also true that only if the hours in which a child spends in Head Start perfectly correspond with a parent's work schedule, is there an overall reduction in hours of child care that a particular family may need. Since the majority of Head Start programs are part-day, many parents require child care assistance in addition to Head Start.

The IDEA preschool and Part C infant and toddler grant programs provide critical services for children with disabilities. However, the provision of services for a few hours a week is not child care. With regard to the Section 619 preschool grants program, most of the programs are 2½ hours a day. Again, this can be a challenge to working families who work longer than 2½ hours a day.

What the list of programs (excluding child care) has in common is that these programs are designed to meet the needs of children, not working parents. On the otherhand, child care is designed to meet the needs of working parents and their children. Since the intent of the Caring for Children Act is to meet the child care needs of parents while promoting quality care for children, the fact that there is \$17 billion available for child care and early education is irrelevant. Funding for intervention programs is not a substitute for child care funding.

More mothers, particularly single mothers, are working now than in years past, which makes juggling part-day programs, child care needs, and work that much more challenging. Among children under age 18 living in families headed by a single mother, the proportion whose mother was working full-time, year-round, increased from 38 percent in 1995 to 50 percent in 2000. For children under age 6, the percentage with a single mother working full-time, year-round, increased from 24 percent in 1995 to 37 percent in 2000. The proportion of employed single mothers with children under 6 rose from 44 percent in 1992 to 65 percent in 2000.

In addition, while \$17 billion is currently spent on child care and early education, such spending is subject to the annual appropriations process. For fiscal year 2004, the President has proposed a \$400 million cut in the 21st Century program, freezes in program spending for IDEA preschool grants and child care. A modest but below inflation adjustment was proposed for IDEA Part C (grants for infants and toddlers. If one assumes that program costs increase with inflation, particularly the salaries needed to attract and retain quality teachers, then budget freezes in these programs could have the effect of reducing the number of children served. The President proposed a modest inflation adjustment for Head Start (which will not create new Head Start programs in communities or extend the hours of operation of existing Head Start centers).

#### *Children with special needs*

While we recognize that efforts have been made in this legislation to expand access and improve the quality of care for disabled children, in too many states, parents with children with disabilities have a great deal of difficulty finding child care. Forty-five percent of mothers of infants with disabilities do not work outside the home for pay because they cannot find child care, according to the Institute of Medicine at the National Academies. Mothers are less likely to re-enter the labor force by the time their child is one and those who do enter the workforce work fewer hours than mothers of typically developing children. For these reasons, despite the improvements in the bill, we will continue to work to see how we can further address the child care needs of families with children who have disabilities.

We want to allay any misconception that programs under IDEA pay for child care for disabled children. They do not. Under IDEA Part C, the infant and toddler grant program, and Part 619, the preschool grant program, funds are provided for therapeutic services to address specific disabilities or developmental delays in children. These services are not child care. For example, IDEA Part C

provides infants and toddlers with occupational and physical therapy, and other services to enhance disabled infants and toddlers' functioning (such as physical therapy for a child with cerebral palsy). To be eligible for special education services, children must be classified by the state as having a disability and being in need of services to address the disability; in no way does eligibility relate to whether a parent works or needs child care. In fact, for working families, the hours of services provided can be a challenge in finding "wrap-around" child care. Or, too often, parents can't work because not only do their children require special services, but then the parents can't find a child care provider to care for a disabled child. Special education services under IDEA Part C can take place across a variety of settings (e.g., within the infant or toddler's home, in day care, etc), and often require the presence of a family member (for training, etc.). IDEA Part C monies pay for these therapeutic and other services; families do not receive these IDEA funds directly. In addition, IDEA Part C services may be 30 minutes a day, 30 minutes a week, it depends on the disability of the child and the services needed. But, these are intervention services, for the most part with the parent present, not child care for working parents.

While it is true that while a child is receiving a service, like physical therapy, the child may not need supervision by a parent, that doesn't make the service child care. Saying otherwise, would mean that pediatric surgery for ear tubes (a common procedure for infants and toddlers) is child care since parents don't need to supervise such children while they are in the operating room. But, we feel everyone would agree that the time a child spends in the operating room is not child care. The same is true with IDEA intervention programs.

#### *Payment rates and access to quality care*

We are particularly concerned about state payment rates for child care. Low payment rates directly affect the kind of care children receive and whether families can find quality child care in their communities. Low rates can also compromise the quality of care offered by providers who are unable to attract and retain qualified staff or invest in curriculum enhancements.

We are strongly concerned that the suggestion of state flexibility could lead to even lower payment rates; the clear intent of the bill's provisions on rates are to encourage states to improve their market rate surveys and raise rates when needed to reflect the findings from those surveys. Indeed, requiring states to develop and conduct a representative market rates survey and set payment rates based on its results is critically important to address problems that stem from low payment rates and help states set payment rates that keep pace with the marketplace.

Current law requires states to set rates that ensure equal access to comparable child care services provided to those who are not eligible for assistance. The Department of Health and Human Services recommends that states set payment rates at or above the 75th percentile of market rates in order to meet the equal access requirements, and we believe that nothing in this bill is intended to modify that guidance. However, nearly half the states set rates

below this level, leaving parents with few choices among child care providers.

The survey requirement is not intended to preclude a state from raising payment rates if the state has previously found it necessary to reduce the number of families assisted for other programmatic or fiscal reasons. In addition to encouraging states to conduct their survey as close as possible to the development of the state plan so that the findings are not outdated, we hope that states will make adjustments between survey intervals as necessary to reflect increases in the cost of living.

Yet, we believe the bill does not go far enough. The bill retains the requirement that rates be sufficient to provide for equal access, but does not set out a quantified, objective payment level that states must reach. Setting the bar at the HHS recommended level of the 75th percentile would improve the situation that exists in half the states that have not yet reached this level. But, even the 75th percentile means that rates are too low to pay for 25% of care in a community, so that low-income parents lack choice among the full range of care and may be unable to access high quality care for their children. We should be setting the bar higher than the 75th percentile to ensure that states strive to do better to improve access to high quality child care, so children have safe, healthy child care that prepares them for school.

The Committee's recognition of the importance of rates-related expenditures to improve parental access to higher quality child care is underscored by the inclusion of a provision to encourage states to spend funds in excess of amounts received for fiscal year 2003 on supporting payment rate increases, establishing tiered reimbursement rates, and increasing payment rates for care in communities identified for improvement under the Elementary and Secondary Education Act. We believe that states should set their payment rates so all parents have the option of high quality care.

However, we also believe that states need resources to ensure higher rates and increased quality of care, and we regret that there are no actual funds devoted for this much needed purpose. Indeed, little or nothing will come of our efforts to improve child care quality and ensure children are ready for school and not left behind, if states merely maintain the current strategy of pushing more and more children into inadequately supported child care settings. The serious issue of affordable high quality child care merits specific requirements and dedicated funding for increased payment rates. Otherwise, we will not see improved payment rates and real, high quality choices for parents in child care. We will seek to address these issues as this bill moves forward.

#### *Federal eligibility guidelines and direct services*

The majority says, "program officials in five of seven states interviewed by the General Accounting Office reported that all families eligible under the state's income criteria who applied for child care assistance were being served." This data is out of date, pre-dates the impact of the recession on states, and will soon be replaced by a new GAO study reflecting more current information, including the impact of the recession.

The majority of states are currently not able to provide child care assistance to all eligible families who need help—even under state criteria. Studies repeatedly support this conclusion. Many states have very long waiting lists for child care assistance. Most states cannot serve all eligible families (even under state criteria). Over 200,000 eligible children are on the waiting list in California, more than 50,000 children in Florida, more than 22,000 families in Georgia, 12,000 families in Indiana, and 17,000 in Massachusetts. Several states including Connecticut, Tennessee, and Maryland as well as the District of Columbia—each with existing waiting lists—have stopped taking new applications for assistance from some eligible families.

Many states choose not to keep waiting lists, which does not mean that the demand is not there for child care assistance. In other cases, this may have more to do with weak state efforts to advertise child care assistance or to perform outreach activities to let eligible families know about the availability of assistance. Recent reports found that some states do not perform aggressive outreach because it would increase demand at a time when states don't have the resources. Twenty-one states said that most low-income families do not know that they could receive assistance and another eight states reported that they were uncertain about whether or not most eligible families know about child care assistance.

In more than a quarter of the states, a family of three earning just \$25,000 does not qualify for assistance. This includes four states where a family of three earning \$20,000 per year would not qualify for assistance. Families with low earnings cannot afford the cost of care on their own. Full-day care in a center can easily cost \$4,000 to \$10,000 per year—at least as much as college tuition at a public university. Child care ranks among the largest expenses for young families, rivaling what even middle-income families spend on rent or food. Other programs such as Head Start and state pre-kindergarten programs provide support to low-income families who are eligible for child care assistance. However, the majority of these programs operate on a part day schedule. This requires parents who work full time to also have access to child care assistance to supplement these part-day programs.

What is clear is that by eliminating the 85% state median income eligibility threshold, on a national level we would not be able to say what percentage of eligible children receive assistance.

The majority contends, “the demand for child care services and the number of eligible families in need of subsidies may be overestimated because not all low-income parents need subsidized child care.” While informal care may be the choice of care for some families, for others it is a default. If state subsidy rates (or payment vouchers) are too low, families are limited in their child care choices. If families work nontraditional hours, there may be few nontraditional hour child care providers in their community. Increasingly, relative care is not free. With increasing economic pressure on relatives, many parents find that they have to pay relatives so that relatives can forgo other employment. Last, in an increasingly transient society, many families simply do not have close geographic access to relatives.

The majority also contends that “estimates of subsidies needed by children through the Child Care and Development Block Grant and TANF might be reduced further by taking into account the availability of other programs and funding sources serving children, including state funded pre-kindergarten programs and Head Start.” As already mentioned, the short hours of these part-time programs can be a challenge to working parents and may not correspond to parent work schedules. According to a nationwide study released in 2000, more than 25 percent of low income working families primarily work evening or overnight shifts. In contrast, 83 percent of higher-income working families work traditional daytime hours, with only 17 percent primarily working evening or overnight shifts. An even higher percentage (42 percent) of working women earning less than \$25,000 a year had nontraditional schedules (nights and weekends).

A study of mothers participating in welfare-to-work programs in California, Connecticut, and Florida found that nearly one-third worked evening shifts and four out of ten worked weekends. A study of 207 Illinois families receiving transitional child care assistance after leaving welfare for work found that nearly 75 percent were working nontraditional hours.

We want to be clear on current law. States have complete flexibility to set income eligibility at whatever level they choose. New Mexico is a prime example of this recently reducing eligibility to the poverty level. Eliminating the federal maximum income level could lead to a race to the bottom. Already, Connecticut, Tennessee, D.C., Maryland, and Colorado have restricted child care assistance to families on welfare.

The child care block grant, authored by this committee, has long been designed to address the needs of low income and working families. The Finance Committee child care money has historically been used for welfare recipients and those most at-risk of welfare receipt. We are very concerned that the removal of the 85 percent state median income threshold will send a signal to the states that child care assistance is for welfare recipients alone. It is not. That’s not the history of this committee action and not the record of the Congress.

Child care in nearly every state costs as much if not more than public college tuition. If we truly care about the quality of care that children receive, we need to ensure that all low income and working families who need child care assistance have access to it, not just families on welfare.

#### *State supplantation*

An issue that was not addressed in this bill and one that we will seek to address on the floor is the issue of state supplanting. We have worked very hard on this bill to improve the quality of care and the child care subsidy system and we are concerned that states could undercut our efforts by using any new child care funds to supplant state budget cuts.

According to the National Governors Association, state budgets are in the worst shape since World War II. For fiscal year 2004, states are facing budget deficits of between \$70 billion and \$85 billion. Last year, 13 states (Alabama, Arizona, Maine, Massachu-



setts, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, Oregon, and Utah) cut child care funding. Seven states (Alabama, Indiana, Kansas, Mississippi, Oklahoma, Utah, and Wyoming) were not able to provide state matching funds to draw down all their available federal child care funding.

Several states have cut state pre-kindergarten funds, with the threat of further cuts this year. Recent budget cuts in Ohio will mean 18,500 children will lose child care by September. Connecticut's Governor has proposed cutting child care by \$40 million over the next 3 years, which will drop 30,000 children from child care assistance. Maryland's Governor has proposed a 25 percent reduction in child care.

A large number of states are cutting TANF funding transferred to child care and also TANF funding spent directly on child care. States are reducing eligibility for child care, reducing payment rates for child care vouchers, and increasing parent co-pays. North Carolina, Oklahoma, and Kansas are cutting funds for infant and toddler care. Some states, like Tennessee and Arizona, are even cutting funds used to ensure child care safety. Nothing will come of our efforts to improve the quality of child care and expand access to child care if states merely use new child care money to supplant state child care cuts.

#### *School-age children*

The term "school-age children" is not specifically mentioned in the Caring for Children Act, but it is clear in the bill that children through age 12 are eligible for child care assistance. The capacity of child care to foster children's social, emotional, physical and cognitive development must continue when children enter school. Improved access to, and quality of, school-age care is critical for the at least 2.4 million children ages 5 to 11, and the 24 percent and 33 percent of 11 and 12 year old children, respectively, who are regularly left alone or unsupervised when they are out of school and their parents are away from the home.

School-age children also face multiple child care arrangements that vary sometimes by day and week. Access to programs, like those supported by 21st Century Community Learning Centers funds, is limited. Moreover, traditional before and after school program hours may not correspond to parent work schedules. For instance, a typical 21st Century middle school program runs for two and a half hours a day, from 2:30 to 5 pm, after which time children typically go home on buses. Census data show that working parents (or parents in school) with children aged 5 to 14, on average, must piece together multiple child care arrangements per week to meet their needs for child care during non-school hours.

According to Census data, nearly 7 million children between the ages of 5 and 14 go home alone unsupervised each week. Those home alone include: two percent of 5 year-olds, three percent of 6 year-olds, 4 percent of 7 year-olds, 8 percent of 8 year-olds, 10 percent of 9 year-olds, and 14 percent of 10 year-olds. It could very well be that a far greater number of children are home alone each week, but 7 million represents the data collected by the Census Bureau. Many people believe that the number of children home alone

is much greater, but parents don't like to admit that their children, particularly young children, are home alone.

Unsupervised time is a significant factor that affects children's safety, well being, and school performance; therefore, enhancing the quality of, and access to, child care for school-aged populations is a critical component of this bill.

*National activities: (child care hotline and infants and toddler set-aside)*

The Appropriations Act for the Departments of Labor, HHS, and Education has set aside funds for infants and toddlers since FY2000. The President's budget has also recognized the importance of this funding for infants and toddlers by requesting \$100 million for this purpose for the last 3 years. With the funds made available through the Appropriations Committee, all states already have activities in place to improve the quality of care for infants and toddlers. This legislation encourages the Appropriations Committee to continue to fully fund this proven effective initiative. Maintaining these targeted funds is especially important in light of recent state cut backs in initiatives that support infant and toddler care.

We want to highlight Child Care Aware as a very good model for a national toll free hotline currently assisting families nationwide in accessing local information on child care options and providing consumer education. It is important for families to continue to have national access to the same level of services, and we agree with the President's FY 2004 budget request which would continue support for this project. Furthermore, we are aware of the Child Care Aware quality assurance program that has been developed to ensure families receive the highest quality local services possible, and encourage the Secretary to continue this initiative.

#### *Funding*

The Caring for Children Act authorizes \$2.1 billion in FY2004, increasing to \$3.1 billion in FY2008, an increase of \$1 billion over current CCDBG discretionary funding over the next five years. We are hopeful that the appropriations process will result in increases to match the authorized levels. At the same time, we will work to increase funding for child care through the mandatory child care funding stream during consideration of welfare reform.

About 16 million children under the age of 13 live in families with incomes below 200% of poverty where someone works and no one receives welfare. These are our primary target families, yet only 2 million children receive child care assistance. These are the families we are concerned have the least amount of choice in child care providers.

We believe that funding for child care must be adjusted for inflation to ensure that current assistance retains its purchasing power in the market, particularly given the already low subsidy rates for child care used by many states. The Congressional Budget Office estimated last year that adjusting assistance for 2 million children would cost \$4.5 billion over the next 5 years. Some argue that it is not Congressional policy to adjust block grants for inflation. Congressional policy is whatever the Congress supports; there is no written policy prohibiting the adjustment of block grants for infla-

tion. By not providing inflation adjustments, states will bear the burden by reducing the number of children served, reducing eligibility levels, reducing subsidies for care (voucher levels), or increasing parent co-payments. The fact is, if we want to maintain current services without reducing the number of children served, some one must pick up the cost of care. If the federal government does not adjust its contribution for inflation, then either states or low income parents will be left to make up the shortfall.

Beyond adjusting current assistance, we also believe that any child care funding made available this year (and through CCDBG and TANF reauthorization) must also reflect any increased TANF work requirements for parents (as estimated by the Congressional Budget Office), sufficient funds to invest in improving the quality of child care, and sufficient funds to expand access to child care for more working poor families.

EDWARD M. KENNEDY.  
TOM HARKIN.  
JAMES JEFFORDS.  
PATTY MURRAY.  
JOHN EDWARDS.  
CHRISTOPHER DODD.  
BARBARA A. MIKULSKI.  
JEFF BINGAMAN.  
JACK REED.  
HILLARY RODHAM CLINTON.

## X. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

\* \* \* \* \*

### CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

\* \* \* \* \*

#### [SEC. 658A. SHORT TITLE AND GOALS.]

##### SEC. 658A. SHORT TITLE AND GOALS.

(a) SHORT TITLE.—This subchapter may be cited as the “Child Care and Development Block Grant Act of 1990”.

(b) GOALS.—The goals of this subchapter are—

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family’s needs;

(3) to [encourage] *assist* States to provide consumer education information to help parents make informed choices about child care;

(4) to assist States to provide child care to [parents trying to achieve independence from public assistance; and] *low-income and working parents*;

(5) *to assist States in improving the quality of child care available to families*;

(6) *to promote school preparedness by encouraging children, families, and caregivers to engage in developmentally appropriate and age-appropriate activities in child care setting that will—*

(A) *improve the children’s social, emotional, and behavioral skills; and*

(B) *foster their early cognitive, pre-reading and language development*;

(7) *to promote parental and family involvement in the education of young children in child care settings; and*

[(5)] (8) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.

\* \* \* \* \*

**SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this [subchapter \$1,000,000,000 for each of the fiscal years 1996 through 2002.] *subchapter \$2,300,000,000 for fiscal year 2004, \$2,500,000,000 for fiscal year 2005, \$2,700,000,000 for fiscal year 2006, \$2,900,000,000 for fiscal year 2007, and \$3,100,000,000 for fiscal year 2008.*

\* \* \* \* \*

**SEC. 658D. LEAD AGENCY.**

(a) DESIGNATION.—The chief executive officer of a State desiring to receive a grant under this subchapter shall [designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.] *designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.*

\* \* \* \* \*

**SEC. 658E. APPLICATION AND PLAN.**

(a) APPLICATION.—\* \* \*

\* \* \* \* \*

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The State plan shall identify the lead agency [designated] *designated or established* under section 658D.

(2) POLICIES AND PROCEDURES.—The State plan shall:

(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter are given the option either—

(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

(II) to receive a child care certificate as defined in [section 658P(2)] *section 658T(2)*;

(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.

(B) UNLIMITED PARENTAL ACCESS.—\* \* \*

\* \* \* \* \*

【(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.】

(D) CONSUMER AND CHILD CARE PROVIDER EDUCATION INFORMATION.—Certify that the State will—

(i) collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

(I) the promotion of informed child care choices, including information about the quality and availability of child care services;

(II) research and best practices concerning children's development, including early cognitive development;

(III) the availability of assistance to obtain child care services; and

(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766), and the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.); and

(ii) report to the Secretary the manner in which the consumer education information described in clause (i) was provided to parents and the number of parents to whom such consumer education information was provided, during the period of the previous State plan.

(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

(i) IN GENERAL.—\* \* \*

\* \* \* \* \*

(H) MEETING THE NEEDS OF CERTAIN POPULATIONS.—

\* \* \*

\* \* \* \* \*

(I) PROTECTION FOR WORKING PARENTS.—

(i) REDETERMINATION PROCESS.—Describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's require-

ments for redetermination of eligibility for assistance under this subchapter.

(ii) *MINIMUM PERIOD.*—Demonstrate that each child that receives assistance under this subchapter in the State will receive such assistance for not less than 6 months before the State redetermines the eligibility of the child under this subchapter, except as provided in clause (iii).

(iii) *PERIOD BEFORE TERMINATION.*—At the option of the State, demonstrate that the State will not terminate assistance under this subchapter based on a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 1 month, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance of a job training or educational program, as soon as possible.

(J) *COORDINATION WITH OTHER PROGRAMS.*—Describe how the State, in order to expand accessibility and continuity of quality early care and early education, will coordinate the early childhood education activities assisted under this subchapter with—

(i) programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including the Early Head Start programs carried out under section 645A of that Act (42 U.S.C. 9840a);

(ii)(I) Early Reading First and Even Start programs carried out under subparts 2 and 3 of prt B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.); and

(II) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.);

(iii) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(iv) State prekindergarten programs; and

(v) other early childhood education programs.

(K) *TRAINING IN EARLY LEARNING AND CHILDHOOD DEVELOPMENT.*—Describe any training requirements that are in effect within the State that are designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and that are applicable to child care providers that provide services for which assistance is made available under this subchapter in the State.

(L) *PUBLIC-PRIVATE PARTNERSHIPS.*—Demonstrate how the State is encouraging partnerships among State agencies, other public agencies, and private entities, to leverage existing service delivery systems (as of the date of submission of the State plan) for early childhood education and to increase the supply and quality of child care services for children who are less than 13 years of age.

(M) ACCESS TO CARE FOR CERTAIN POPULATIONS.—*Demonstrate how the State is addressing the child care needs of parents eligible for child care services for which assistance is provided under this subchapter, who have children with special needs, work nontraditional hours, or require child care services for infants and toddlers.*

(N) COORDINATION WITH TITLE IV OF THE SOCIAL SECURITY ACT.—*Describe how the State will inform parents receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and low-income parents about eligibility for assistance under this subchapter.*

(3) USE OF BLOCK GRANT FUNDS.—

(A) GENERAL REQUIREMENT.—*The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter [as required under] in accordance with subparagraphs (B) through [(D)] (E).*

(B) CHILD CARE SERVICES AND RELATED ACTIVITIES.—  
[The State]

(i) IN GENERAL.—*The State shall use amounts provided to the State for each fiscal year under this subchapter for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems [appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)] appropriate (which may include an activity described in clause (ii)) to realize any of the goals specified in paragraphs (2) through (8) of section 658A(b), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs.*

(ii) CHILD CARE RESOURCE AND REFERRAL SYSTEM.—*A State may use amounts described in clause (i) to establish or support a system of local child care resource and referral organizations coordinated by a statewide private, nonprofit, community-based lead child care resource and referral organization. The local child care resource and referral organizations shall—*

(I) *provide parents in the State with information, and consumer education, concerning the full range of child care options, including child care provided during nontraditional hours and through emergency child care centers, in their communities;*

(II) *collect and analyze data on the supply of and demand for child care in political subdivisions within the State;*

(III) *submit reports to the State containing data and analysis described in clause (II); and*

(IV) *work to establish partnerships with public agencies and private entities to increase the supply and quality of child care services.*



(C) LIMITATION ON ADMINISTRATIVE COSTS.—\* \* \*

(D) ASSISTANCE FOR CERTAIN FAMILIES.—\* \* \*

(E) *DIRECT SERVICES.*—*From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—*

*(i) reserve the minimum amount required to be reserved under section 658G, and the funds for costs described in subparagraph (C); and*

*(ii) from the remainder, use not less than 70 percent to fund direct services (as defined by the State).*

(4) PAYMENT RATES.—

(A) IN GENERAL.—[The State plan shall certify that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access.]

*(i) SURVEY.—The State plan shall—*

*(I) demonstrate that the State has, after consulting with local area child care program administrators, developed and conducted a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) within the 2 years preceding the date of the submission of the application containing the State plan;*

*(II) detail the results of the State market rates survey conducted pursuant to subclause (I);*

*(III) describe how the State will provide for timely payment for child care services, and set payment rates for child care services, for which assistance is provided under this subchapter in accordance with the results of the market rates survey conducted pursuant to subclause (I) without reducing the number of families in the State receiving such assistance under this subchapter, relative to the number of such families on the date of introduction of the Caring for Children Act of 2003; and*

*(IV) describe how the State will, not later than 30 days after the completion of the survey described in subclause (I), make the results of the survey widely available through public means, including posting the results on the Internet.*

*(ii) EQUAL ACCESS.—The State plan shall include a certification that the payment rates are sufficient to ensure equal access for eligible children to child care services comparable to child care services in the State*

*or substate area that are provided to children whose parents are not eligible to receive child care assistance under any Federal or State program.*

**(B) CONSTRUCTION.—[Nothing]**

*(i) NO PRIVATE RIGHT OF ACTION.—Nothing in this paragraph shall be construed to create a private right of action.*

*(ii) NO PROHIBITION OF CERTAIN DIFFERENT RATES.—Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (A) on the basis of—*

*(I) geographic location of child care providers (such as location in an urban or rural area);*

*(II) the age or particular needs of children (such as children with special needs and children served by child protective services); and*

*(III) whether the providers provide child care during weekend and other nontraditional hours.*

\* \* \* \* \*

**[SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

**[A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 4 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).]**

**SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

**(a) IN GENERAL.—**

*(1) RESERVATION.—Each State that receives funds to carry out this subchapter for a fiscal year shall reserve and use not less than 6 percent of the funds for activities provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services.*

*(2) ACTIVITIES.—The funds reserved under paragraph (1) may only be used to—*

*(A) develop and implement voluntary guidelines on pre-reading and language skills and activities, for child care programs in the State, that are aligned with State standards for kindergarten through grade 12 or the State's general goals for school preparedness;*

*(B) support activities and provide technical assistance in Federal, State, and local child care settings to enhance early learning for young children, to promote literacy, and to foster school preparedness;*

*(C) offer training, professional development, and educational opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching strategies, that are scientifically based and aligned with the social, emotional, physical, and cognitive development of children, including—*

- (i) developing and operating distance learning child care training infrastructures;
- (ii) developing model technology-based training courses;
- (iii) offering training for caregivers in informal child care settings; and
- (iv) offering training for child care providers who care for infants and toddlers and children with special needs.

(D) engage in programs designed to increase the retention and improve the competencies of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and

(F) carry out other activities determined by the State to improve the quality of child care services provided in the State and for which measurement of outcomes relating to improved child safety, child well-being, or school preparedness is possible.

(b) *CERTIFICATION.*—Beginning with fiscal year 2004, the State shall annually submit to the Secretary a certification in which the State certifies that the State was in compliance with subsection (a) during the preceding fiscal year and describes how the State used funds made available to carry out this subchapter to comply with subsection (a) during that preceding fiscal year.

(c) *STRATEGY.*—The State shall annually submit to the Secretary—

(1) beginning with fiscal year 2004, an outline of the strategy the State will implement during that fiscal year to address the quality of child care services for which financial assistance is made available under this subchapter, including—

(A) a statement specifying how the State will address the activities carried out under subsection (a);

(B) a description of quantifiable, objective measures that the State will use to evaluate the State's progress in improving the quality of the child care services (including measures regarding the impact, if any, of State efforts to improve the quality by increasing payment rates, as defined in section 658II(c)), evaluating separately the impact of the activities listed in each of such subparagraphs on the quality of the child care services; and

(C) a list of State-developed child care services quality targets quantified for such fiscal year for such measures; and

(2) beginning with fiscal year 2005, a report on the State's progress in achieving such targets for the preceding fiscal year.

(d) *IMPROVEMENT PLAN.*—If the Secretary determines that a State failed to make progress as described in subsection (c)(2) for a fiscal year—

(1) *the State shall submit an improvement plan that describes the measures the State will take to make that progress; and*

(2) *the State shall comply with the improvement plan by a date specified by the Secretary but not later than 1 year after the date of the determination.*

(e) *CONSTRUCTION.—Nothing in this subchapter shall be construed to require that the State apply measures for evaluating quality of child care services to specific types of child care providers.*

\* \* \* \* \*

**SEC. 658H. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.**

(a) *IN GENERAL.—If a State receives funds to carry out this subchapter for a fiscal year, and the amount of the funds exceeds the amount of funds the State received to carry out this subchapter for fiscal year 2003, the State shall consider using a portion of the excess—*

(1) *to support payment rate increases in accordance with the market rate survey conducted pursuant to section 658E(c)(4);*

(2) *to support the establishment of tiered payment rates as described in section 658G(a)(2)(D); and*

(3) *to support payment rate increases for care for children in communities served by local educational agencies that have been identified for improvement under section 1116(e)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3)).*

(b) *NO REQUIREMENT TO REDUCE CHILD CARE SERVICES.—Nothing in this section shall be construed to require a State to take an action that the State determines would result in a reduction of child care services to families of eligible children.*

(c) *PAYMENT RATE.—In this section, the term payment rate means the rate of State payment or reimbursement to providers for subsidized child care.*

\* \* \* \* \*

**[SEC. 658K. REPORTS AND AUDITS.]**

**SEC. 658K. REPORTS AND AUDITS.**

**[(a) REPORTS.—**

**[(1) COLLECTION OF INFORMATION BY STATES.—**

**[(A) IN GENERAL.—**A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

**[(B) REQUIRED INFORMATION.—**The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

- [(i) family income;**
- [(ii) county of residence;**
- [(iii) the gender, race, and age of children receiving such assistance;**
- [(iv) whether the head of the family unit is a single parent;**

**[(v) the sources of family income, including—**

**[(I) employment, including self-employment;**

**[(II) cash or other assistance under—**

**[(aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and**

**[(bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));**

**[(III) housing assistance;**

**[(IV) assistance under the Food Stamp Act of 1977; and**

**[(V) other assistance programs;**

**[(vi) the number of months the family has received benefits;**

**[(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);**

**[(viii) whether the child care provider involved was a relative;**

**[(ix) the cost of child care for such families; and**

**[(x) the average hours per month of such care; during the period for which such information is required to be submitted.**

**[(C) SUBMISSION TO SECRETARY.—**A State may described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

**[(D) USE OR SAMPLES.—**

[(i) **AUTHORITY.**—A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

[(ii) **SAMPLING AND OTHER METHODS.**—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

[(2) **ANNUAL REPORTS.**—Not later than December 31, 1997, and every 12 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

[(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

[(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

[(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

[(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

[(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted.]

(a) **REPORTS.**—

(1) **IN GENERAL.**—A State that receives funds to carry out this subchapter shall collect the information described in paragraph (2) on a monthly basis.

(2) **REQUIRED INFORMATION.**—The information required under this paragraph shall include, with respect to a family unit receiving assistance under this subchapter, information concerning—

(A) family income;

(B) county of residence;

(C) the gender, race, and age of children receiving such assistance;

(D) whether the head of the family unit is a single parent;

(E) the sources of family income, including—

(i) employment, including self-employment; and

(ii) assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and a State program for which State

spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

(F) the type of child care in which the child was enrolled (such as family child care, home care, center-based child care, or other types of child care described in section 658T(5));

(G) whether the child care provider involved was a relative;

(H) the cost of child care for such family, separately stating the amount of the subsidy payment of the State and the amount of the co-payment of the family toward such cost;

(I) the average hours per month of such care;

(J) household size;

(K) whether the parent involved reports that the child has an individualized education program or an individualized family service plan described in section 602 or 636 of the Individuals with Disabilities Education Act (20 U.S.C. 1401 and 1436); and

(L) the reason for any termination of benefits under this subchapter, including whether the termination was due to—

- (i) the child's age exceeding the allowable limit;
- (ii) the family income exceeding the State eligibility limit;
- (iii) the State recertification or administrative requirements not being met;
- (iv) parent work, training, or education status no longer meeting State requirements;
- (v) a nonincome related change in status; or
- (vi) other reasons;

during the period for which such information is required to be submitted.

(3) **SUBMISSION TO SECRETARY.**—A State described in paragraph (1) shall, on a quarterly basis, submit to the Secretary the information required to be collected under paragraph (2) and the number of children and families receiving assistance under this subchapter (stated on a monthly basis). Information on the number of families receiving the assistance shall also be posted on the website of such State. In the fourth quarterly report of each year, a State described in paragraph (1) shall also submit to the Secretary information on the annual number and type of child care providers (as described in section 658T(5)) that received funding under this subchapter and the annual number of payments made by the State Through vouchers, under contracts, or by payment to parents reported by type of child care provider.

(4) **USE OF SAMPLES.**—

(A) **AUTHORITY.**—A State may comply with the requirement to collect the information described in paragraph (2) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

(B) *SAMPLING AND OTHER METHODS.*—The Secretary shall provide the State with such case sampling plans and data collection procedures as the Secretary determines necessary to produce statistically valid samples of the information described in paragraph (2). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

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**[SEC. 658L. REPORT BY SECRETARY.]**

【Not later than July 31, 1998, and biennially thereafter, the Secretary shall prepare and submit to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.】

**SEC. 658L. NATIONAL ACTIVITIES.**

(a) *REPORT.*—

(1) *IN GENERAL.*—The Secretary shall, not later than April 30, 2004, and annually thereafter, prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and, not later than 30 days after the date of such submission, post on the Department of Health and Human Services website, a report that contains the following:

(A) A summary and analysis of the data and information provided to the Secretary in the State reports submitted under sections 658E, 658G(c), and 658K.

(B) Aggregated statistics on and an analysis of the supply of, demand for, and quality of child care, early education, and nonschool-hour programs.

(C) An assessment and, where appropriate, recommendations for Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

(D) A progress report describing the progress of the States in streamlining data reporting, the Secretary's plans and activities to provide technical assistance to States, and an explanation of any barriers to getting data in an accurate and timely manner.

(2) *COLLECTION OF INFORMATION.*—The Secretary may make arrangements with resource and referral organizations, to utilize the child care data system of the resource and referral organizations at the national, State, and local levels, to collect the information required by paragraph (1)(B).

(b) *GRANTS TO IMPROVE QUALITY AND ACCESS.*—

(1) *IN GENERAL.*—The Secretary shall award grants to States, from allotments made under paragraph (2), to improve the



quality of and access to child care for infants and toddlers, subject to the availability of appropriations for this purpose.

(2) *ALLOTMENTS.*—From funds reserved under section 658O(a)(3) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the amount the State receives for the fiscal year under section 658O bears to the amount all States receive for the fiscal year under section 658O.

(c) *TOLL-FREE HOTLINE.*—The Secretary shall award a grant or a contract, or enter into a cooperative agreement for the operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials, subject to the availability of appropriations for this purpose.

(d) *TECHNICAL ASSISTANCE.*—The Secretary shall provide technical assistance to States on developing and conducting the State market rates survey described in section 658E(c)(4)(A)(i).

\* \* \* \* \*

#### **SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.**

(a) *AMOUNTS RESERVED.*—

(1) *TERRITORIES AND POSSESSIONS.*—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

(2) *INDIAN TRIBES.*—The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

(3) *GRANTS TO IMPROVE QUALITY AND ACCESS.*—The Secretary shall reserve an amount not to exceed \$100,000,000 for each fiscal year to carry out section 658L(b), subject to the availability of appropriations for this purpose.

(4) *TOLL-FREE HOTLINE.*—The Secretary shall reserve an amount not to exceed \$1,000,000 to carry out section 658L(c), subject to the availability of appropriations for this purpose.

\* \* \* \* \*

#### **SEC. 658P. RULES OF CONSTRUCTION.**

Nothing in this subchapter shall be construed to require a State to impose State child care licensing requirements on any type of early childhood provider, including any such provider who is exempt from State child care licensing requirements on the date of enactment of the Caring for Children Act of 2003.

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#### **SEC. 658[P]T. DEFINITIONS.**

As used in this subchapter:

(1) *CAREGIVER.*—The term “caregiver” means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) CHILD CARE CERTIFICATE.—The term “child care certificate” means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

(3) CHILD WITH SPECIAL NEEDS.—*The term “child with special needs” means—*

(A) *a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401); and*

(B) *a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).*

(4) ELIGIBLE CHILD.—The term “eligible child” means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed [85 percent of the State median income for a family of the same size] *an income level determined by the State involved, with priority based on need as defined by the State; and*

(C) who—

(i) resides with a parent or parents who are working or attending a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

\* \* \* \* \*

(8) LEAD AGENCY.—The term “lead agency” means the agency designated under [section 658B(a)] *section 658D(a).*

\* \* \* \* \*

(14) TRIBAL ORGANIZATION.—

(A) IN GENERAL.—The term “tribal organization” has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(B) OTHER ORGANIZATIONS.—Such term includes a [Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4))] *Native Hawaiian organization, as defined in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517) and a private non-profit organization established for the purpose of serving youth who are Indians or Native Hawaiians.*