116TH CONGRESS  
2D Session  

H. R.  

Making additional supplemental appropriations for disaster relief requirements for the fiscal year ending September 30, 2020, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY (for herself, Mr. NEAL, Ms. DeLAURO, Ms. CLARK of Massachusetts, Mr. DANNY K. DAVIS of Illinois, and Ms. SÁNCHEZ) introduced the following bill; which was referred to the Committee on

A BILL

Making additional supplemental appropriations for disaster relief requirements for the fiscal year ending September 30, 2020, and for other purposes.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Child Care for Eco-
5 nomic Recovery Act”.

VerDate Nov 24 2008 10:03 Jun 25, 2020 Jkt 000000 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201
SEC. 2. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—EMERGENCY CHILD CARE SUPPORT APPROPRIATIONS

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

TITLE I—DEPARTMENT OF THE TREASURY
   INTERNAL REVENUE SERVICES
   TAXPAYER SERVICES

For an additional amount for “Taxpayer Services”, $5,000,000, to remain available until expended, for making grants under the Community Volunteer Income Tax Assistance Matching Grants Program established under section 7526A of the Internal Revenue Code of 1986: Provided, That the matching funds requirement in section 7526A(b)(2) shall not apply to funds made available under this heading in this Act: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.
TITLE II—DEPARTMENT OF HEALTH AND
1 HUMAN SERVICES
2 ADMINISTRATION FOR CHILDREN AND FAMILIES
3 SOCIAL SERVICES BLOCK GRANT

For an additional amount for “Social Services Block
Grant”, $850,000,000, to remain available until Sep-
tember 30, 2021, for making grants to States pursuant
to section 2002 of the Social Security Act: Provided, That
the amount made available under this heading in this Act
shall be used for necessary expenses for family care for
essential workers, pursuant to section 409 of division B
this Act: Provided further, That such amount is designated
by the Congress as being for an emergency requirement
pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-

CHILD CARE AND DEVELOPMENT FUND

For an additional amount for “Child Care and Devel-
opment Fund”, $10,000,000,000, to remain available
until September 30, 2024, for necessary expenses for in-
frastucture grants to improve child care safety, including
needs assessments, pursuant to section 418A of Part A
of title IV of the Social Security Act, as added by division
B of this Act: Provided, That funds made available under
this heading in this Act may be used for grants for the
construction, alteration, or renovation of non-Federally
owned facilities to improve child care safety: *Provided further,* That all construction, alteration, or renovation work, carried out in whole or in part with funds appropriated under this heading in this Act, shall be subject to the requirements of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the “Davis-Bacon Act”): *Provided further,* That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE III—GENERAL PROVISIONS—THIS DIVISION

Sec. 301. Each amount appropriated or made available by this Act is in addition to any amounts otherwise appropriated for the fiscal year involved.

Sec. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 303. Unless otherwise provided for by this Act, the additional amounts appropriated by this Act to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

Sec. 304. Each amount designated in this Act by the Congress as being for an emergency requirement pursuant
to section 251(b)(2)(A)(i) of the Balanced Budget and
Emergency Deficit Control Act of 1985 shall be available
(or rescinded or transferred, if applicable) only if the
President subsequently so designates all such amounts
and transmits such designations to the Congress.

SEC. 305. Any amount appropriated by this Act, des-
ignated by the Congress as an emergency requirement
pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
et and Emergency Deficit Control Act of 1985 and subse-
quently so designated by the President, and transferred
pursuant to transfer authorities provided by this Act shall
retain such designation.

BUDGETARY EFFECTS

SEC. 306. (a) STATUTORY PAYGO SCORECARDS.—
The budgetary effects of division B shall not be entered
on either PAYGO scorecard maintained pursuant to sec-
tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary
effects of division B shall not be entered on any PAYGO
scorecard maintained for purposes of section 4106 of H.
Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—
Notwithstanding Rule 3 of the Budget Scorekeeping
Guidelines set forth in the joint explanatory statement of
the committee of conference accompanying Conference Re-
port 105–217 and section 250(c)(8) of the Balanced
Budget and Emergency Deficit Control Act of 1985, the budgetary effects of division B shall not be estimated—

(1) for purposes of section 251 of such Act; and

(2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

This division may be cited as the “Emergency Child Care Support Appropriations Act, 2020”.

DIVISION B—WORKER ACCESS TO CHILD AND FAMILY CARE

SEC. 401. SHORT TITLE.

This division may be cited as the “Worker Access to Child and Family Care Act”.

SEC. 402. REFUNDABILITY AND ENHANCEMENT OF CHILD AND DEPENDENT CARE TAX CREDIT.

(a) TREATMENT OF CREDIT AS REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) TREATMENT OF CREDIT AS REFUNDABLE.—In the case of an individual other than a nonresident alien, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).”.

(b) INCREASE IN APPLICABLE PERCENTAGE.—Section 21(a)(2) of such Code is amended—
(1) by striking “35 percent” and inserting “50 percent”, and
(2) by striking “$15,000” and inserting “$120,000”.

(c) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Section 21(c) of such Code is amended—
(1) by striking “$3,000” in paragraph (1) and inserting “$6,000”, and
(2) by striking “$6,000” in paragraph (2) and inserting “twice the amount in effect under paragraph (1)”.

(d) INFLATION ADJUSTMENT.—Section 21(e) of such Code is amended by adding at the end the following new paragraph:

“(11) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2020, the $120,000 amount in subsection (a)(2) and the $6,000 amount in subsection (c)(1) shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘2019’ for ‘2016’ in subparagraph (A)(ii) thereof.
If any increase determined under this paragraph is not a multiple of $100, such increase shall be rounded to the next highest multiple of $100.”

(e) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting “21 (by reason of subsection (g) thereof),” before “25A”.

(f) COORDINATION WITH POSSESSION TAX SYSTEMS.—Section 21(g)(1) of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any person—

(1) to whom a credit is allowed against taxes imposed by a possession with a mirror code tax system by reason of the application of section 21 of such Code in such possession for such taxable year, or

(2) to whom a credit would be allowed against taxes imposed by a possession which does not have a mirror code tax system if the provisions of section 21 of such Code had been in effect in such possession for such taxable year.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2019.
SEC. 403. INCREASE IN EXCLUSION FOR EMPLOYER-PROV
VIDED DEPENDENT CARE ASSISTANCE.

(a) In General.—Section 129(a)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “$5,000 ($2,500)” and inserting “$10,500 (half such dollar amount).

(b) Inflation Adjustment.—Section 129(a)(2) is amended by adding at the end the following new subparagraph:

“(D) Inflation Adjustment.—In the case of any taxable year beginning after December 31, 2020, the $10,500 amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘2019’ for ‘2016’ in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence which is not a multiple of $50, shall be rounded to the next highest multiple of $50.”.
(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2019.

(d) Plan Amendments.—A plan or other arrangement that otherwise satisfies all applicable requirements of sections 106, 125, and 129 of the Internal Revenue Code of 1986 (including any rules or regulations thereunder) shall not fail to be treated as a cafeteria plan or dependent care flexible spending arrangement merely because such plan or arrangement is amended pursuant to the amendments made by this section and such amendment is retroactive, if—

(1) such amendment is adopted no later than the last day of the first plan year beginning after December 31, 2019, and

(2) the plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.

SEC. 404. PAYROLL CREDIT FOR CERTAIN FIXED EXPENSES OF CHILD CARE FACILITIES SUBJECT TO CLOSURE BY REASON OF COVID–19.

(a) In General.—In the case of an eligible employer, there shall be allowed as a credit against applicable
employment taxes for each calendar quarter an amount equal to 50 percent of the qualified fixed expenses paid or incurred by such employer during such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) OVERALL QUARTERLY DOLLAR LIMITATION.—The qualified fixed expenses which may be taken into account under subsection (a) (determined after the application of paragraph (2)) by any eligible employer for any calendar quarter shall not exceed the least of—

(A) the qualified fixed expenses paid by the eligible employer in the same calendar quarter of calendar year 2019,

(B) $25,000,000, or

(C) the greater of—

(i) 25 percent of the wages paid with respect to the employment of all the employees of the eligible employer for such calendar quarter, or

(ii) 6.25 percent of the gross receipts of the eligible employer for calendar year 2019.

(2) PER FACILITY QUARTERLY DOLLAR LIMITATION.—The qualified fixed expenses which may be
taken into account under subsection (a) by any eligible employer for any calendar quarter with respect to any facility of such employer shall not exceed $50,000.

(3) CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the applicable employment taxes for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code, sections 7001 and 7003 of the Families First Coronavirus Response Act, and section 2301 of the CARES Act, for such quarter) on the wages paid with respect to the employment of all the employees of the eligible employer for such calendar quarter.

(4) REFUNDABILITY OF EXCESS CREDIT.—

(A) IN GENERAL.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (3) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of the Internal Revenue Code of 1986.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States
Code, any amounts due to an employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(c) DEFINITIONS.—For purposes of this section—

(1) APPLICABLE EMPLOYMENT TAXES.—The term “applicable employment taxes” means the following:

(A) The taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.

(B) So much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(a) of such Code.

(2) ELIGIBLE EMPLOYER.—

(A) IN GENERAL.—The term “eligible employer” means any employer—

(i) which was carrying on a trade or business engaged in the provision of child care assistance at a qualified child care facility (within the meaning of section 45F(c)(2)(A) of such Code without regard to the last sentence thereof) at any time during calendar year 2020, and
(ii) with respect to any calendar quarter, for which—

(I) the operation of the trade or business described in clause (i) is fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease 2019 (COVID–19), or

(II) such calendar quarter is within the period described in subparagraph (B).

(B) Significant decline in gross receipts.—The period described in this subparagraph is the period—

(i) beginning with the first calendar quarter beginning after December 31, 2019, for which gross receipts (within the meaning of section 448(c) of the Internal Revenue Code of 1986) for the calendar quarter are less than 90 percent of gross
receipts for the same calendar quarter in
the prior year, and

(ii) ending with the calendar quarter
following the first calendar quarter begin-
ning after a calendar quarter described in
clause (i) for which gross receipts of such
employer are greater than 90 percent of
gross receipts for the same calendar quar-
ter in the prior year.

(C) Tax-exempt Organizations.—In the
case of an organization which is described in
section 501(c) of the Internal Revenue Code of
1986 and exempt from tax under section 501(a)
of such Code—

(i) any reference in this section to a
trade or business shall be treated as a ref-
ence to the operations of such organiza-
tion which are related to the provision of
child care assistance (within the meaning
of subparagraph (A)(i)), and

(ii) any reference in this section to
gross receipts shall be treated as a ref-
ence to gross receipts within the meaning
of section 6033 of the Internal Revenue
(D) Phase-in of credit where business not suspended and reduction in gross receipts less than 50 percent.—

(i) In general.—In the case of any calendar quarter with respect to which an eligible employer would not be an eligible employer if subparagraph (B)(i) were applied by substituting “50 percent” for “90 percent”, the amount of the credit allowed under subsection (a) shall be reduced by the amount which bears the same ratio to the amount of such credit (determined without regard to this subparagraph) as—

(I) the excess gross receipts percentage point amount, bears to

(II) 40 percentage points.

(ii) Excess gross receipts percentage point amount.—For purposes of this subparagraph, the term “excess gross receipts percentage point amount” means, with respect to any calendar quarter, the excess of—

(I) the lowest of the gross receipts percentage point amounts determined with respect to any calendar
quarter during the period ending with
such calendar quarter and beginning
with the first calendar quarter during
the period described in subparagraph
(B), over

(II) 50 percentage points.

(iii) GROSS RECEIPTS PERCENTAGE
POINT AMOUNTS.—For purposes of this
subparagraph, the term “gross receipts
percentage point amount” means, with re-
spect to any calendar quarter, the percent-
age (expressed as a number of percentage
points) obtained by dividing—

(I) the gross receipts (within the
meaning of subparagraph (B)) for
such calendar quarter, by

(II) the gross receipts for the
same calendar quarter in calendar
year 2019.

(3) QUALIFIED FIXED EXPENSES.—

(A) IN GENERAL.—The term “qualified
fixed expenses” means the payment or accrual,
in the ordinary course of the eligible employer’s
trade or business, of any covered mortgage obli-
gation, covered rent obligation, or covered util-
ity payment. Such term shall not include the prepayment of any obligation for a period in excess of a month unless the payment for such period is customarily due in advance. Such term shall not include any payment or accrual of any obligation or payment which is with respect to property which is not located in the United States or any possession of the United States.

(B) APPLICATION OF DEFINITIONS.—The terms “covered mortgage obligation”, “covered rent obligation”, and “covered utility payment” shall each have the same meaning as when used in section 1106 of the CARES Act.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(5) WAGES.—

(A) IN GENERAL.—The term “wages” means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) and compensation (as defined in section 3231(e) of such Code). For purposes of the preceding sentence (other than for purposes of subsection (b)(2)), wages as defined in section 3121(a) of such Code shall be determined without regard to
paragraphs (1), (8), (10), (13), (18), (19), and (22) of section 3121(b) of such Code.

(B) ALLOWANCE FOR CERTAIN HEALTH PLAN EXPENSES.—

(i) IN GENERAL.—Such term shall include amounts paid or incurred by the eligible employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(ii) ALLOCATION RULES.—For purposes of this section, amounts treated as wages under clause (i) shall be treated as paid with respect to any employee (and with respect to any period) to the extent that such amounts are properly allocable to such employee (and to such period) in such manner as the Secretary may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among periods of coverage.
(6) **EMPLOYER.**—The term “employer” means any employer (as defined in section 3401(d) of such Code) of at least one employee on any day in calendar year 2020.

(7) **OTHER TERMS.**—Except as otherwise provided in this section, any term used in this section which is also used in chapter 21 or 22 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(d) **AGGREGATION RULE.**—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or subsection (m) or (o) of section 414 of such Code, shall be treated as one employer for purposes of this section.

(e) **DENIAL OF DOUBLE BENEFIT.**—For purposes of chapter 1 of such Code, the gross income of any eligible employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit.

(f) **CERTAIN GOVERNMENTAL EMPLOYERS.**—

(1) **IN GENERAL.**—The credit under this section shall not be allowed to the Federal Government, the government of any State, of the District of Columbia, or of any possession of the United States, any
tribal government, or any political subdivision, agency, or instrumentality of any of the foregoing.

(2) EXCEPTION.—Paragraph (1) shall not apply to any organization described in section 501(c)(1) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(g) ELECTION NOT TO HAVE SECTION APPLY.—This section shall not apply with respect to any eligible employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary may prescribe) not to have this section apply.

(h) TRANSFERS TO CERTAIN TRUST FUNDS.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have oc-
curred to such Trust Fund or Account had this section not been enacted.

(i) **TREATMENT OF DEPOSITS.**—The Secretary shall waive any penalty under section 6656 of such Code for any failure to make a deposit of applicable employment taxes if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

(j) **THIRD PARTY PAYORS.**—Any credit allowed under this section shall be treated as a credit described in section 3511(d)(2) of such Code.

(k) **REGULATIONS AND GUIDANCE.**—The Secretary shall issue such forms, instructions, regulations, and guidance as are necessary—

(1) to allow the advance payment of the credit under subsection (a), subject to the limitations provided in this section, based on such information as the Secretary shall require,

(2) regulations or other guidance to provide for the reconciliation of such advance payment with the amount of the credit at the time of filing the return of tax for the applicable quarter or taxable year,

(3) with respect to the application of the credit under subsection (a) to third party payors (including professional employer organizations, certified professional employer organizations, or agents under sec-
tion 3504 of the Internal Revenue Code of 1986),
including regulations or guidance allowing such
payors to submit documentation necessary to sub-
stantiate the eligible employer status of employers
that use such payors,

(4) for application of subsection (b)(1)(A) and
subparagraphs (A)(ii)(II) and (B) of subsection
(c)(2) in the case of any employer which was not
carrying on a trade or business for all or part of the
same calendar quarter in the prior year, and

(5) for recapturing the benefit of credits deter-
dined under this section in cases where there is a
subsequent adjustment to the credit determined
under subsection (a).

(l) APPLICATION OF SECTION.—This section shall
apply only to qualified fixed expenses paid or accrued in
calendar quarters beginning on or after the date of the
enactment of this Act and before January 1, 2021.

SEC. 405. PAYROLL CREDIT FOR CERTAIN EMPLOYEE DE-
PENDENT CARE EXPENSES PAID BY EMPLOY-
ERS.

(a) IN GENERAL.—In the case of an employer, there
shall be allowed as a credit against applicable employment
taxes for each calendar quarter an amount equal to 30
percent of the qualified employee dependent care expenses
paid by such employer with respect to such calendar quarter.

(b) Limitations and Refundability.—

(1) Dollar limitation per employee.—The qualified employee dependent care expenses which may be taken into account under subsection (a) with respect to any employee for any calendar quarter shall not exceed $2,500.

(2) Credit limited to certain employment taxes.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the applicable employment taxes for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code, sections 7001 and 7003 of the Families First Coronavirus Response Act, section 2301 of the CARES Act, and section 4 of this Act, for such quarter) on the wages paid with respect to the employment of all the employees of the employer for such calendar quarter.

(3) Refundability of excess credit.—

(A) In general.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment
that shall be refunded under sections 6402(a)
and 6413(b) of the Internal Revenue Code of
1986.

(B) TREATMENT OF PAYMENTS.—For pur-
poses of section 1324 of title 31, United States
Code, any amounts due to an employer under
this paragraph shall be treated in the same
manner as a refund due from a credit provision
referred to in subsection (b)(2) of such section.

(4) COORDINATION WITH GOVERNMENT
GRANTS.—The qualified employee dependent care
expenses taken into account under this section by
any employer shall be reduced by any amounts pro-
vided by any Federal, State, or local government for
purposes of making or reimbursing such expenses.

(e) QUALIFIED EMPLOYEE DEPENDENT CARE EX-
PENSES.—For purposes of this section, the term “quali-
fied employee dependent care expenses” means any
amount paid to or for the benefit of an employee in the
employment of the employer if—

(1) such amount is dependent care assistance
(as defined in section 129(e)(1) of the Internal Rev-

(2) the employer elects (at such time and in
such manner as the Secretary may provide) to treat
such amount as a qualified employee dependent care
expense.

(d) **Special Rules; Other Definitions.**—

(1) **Application of Certain Non-Discrimination Rules.**—No credit shall be allowed under this
section to any employer for any calendar quarter if
qualified employee dependent care expenses are pro-
vided by such employer to employees for such cal-
endar quarter in a manner which discriminates in
favor of highly compensated individuals (within the
meaning of section 125) as to eligibility for, or the
amount of, such benefit expenses.

(2) **Denial of Double Benefit.**—For pur-
poses of chapter 1 of such Code, no deduction or
credit (other than the credit allowed under this sec-
tion) shall be allowed for so much of qualified em-
ployee dependent care expenses as is equal to the
credit allowed under this section.

(3) **Third Party Payors.**—Any credit allowed
under this section shall be treated as a credit de-
scribed in section 3511(d)(2) of such Code.

(4) **Applicable Employment Taxes.**—For
purposes of this section, the term “applicable em-
ployment taxes” means the following:
(A) The taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.

(B) So much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(a) of such Code.

(5) SECRETARY.—For purposes of this section, the term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(6) CERTAIN TERMS.—

(A) IN GENERAL.—Any term used in this section which is also used in chapter 21 or 22 of such Code shall have the same meaning as when used in such chapter (as the case may be).

(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT EXCEPT FOR PURPOSES OF LIMITING CREDIT TO EMPLOYMENT TAXES.—For purposes of subparagraph (A) (other than with respect to subsection (b)(2)), section 3121(b) of such Code shall be applied without regard to paragraphs (1), (5), (6), (7), (8), (10), (13), (18), (19), and (22) thereof (except with respect to services performed in a penal institution by an inmate thereof) and section
3231(e)(1) shall be applied without regard to the sentence that begins “Such term does not include remuneration”.

(e) CERTAIN GOVERNMENTAL EMPLOYERS.—

(1) IN GENERAL.—The credit under this section shall not be allowed to the Federal Government or any agency or instrumentality thereof.

(2) EXCEPTION.—Paragraph (1) shall not apply to any organization described in section 501(c)(1) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(f) TREATMENT OF DEPOSITS.—The Secretary shall waive any penalty under section 6656 of such Code for any failure to make a deposit of applicable employment taxes if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

(g) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including regulations or other guidance—

(1) to allow the advance payment of the credit determined under subsection (a), subject to the limitations provided in this section, based on such information as the Secretary shall require,
(2) to provide for the reconciliation of such advance payment with the amount of the credit at the time of filing the return of tax for the applicable quarter or taxable year,

(3) for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a), and

(4) with respect to the application of the credit to third party payors (including professional employer organizations, certified professional employer organizations, or agents under section 3504 of such Code), including to allow such payors to submit documentation necessary to substantiate eligibility for, and the amount of, the credit allowed under this section.

(h) Application of Section.—This section shall apply only to qualified employee dependent care expenses paid in calendar quarters beginning on or after the date of the enactment of this Act and before January 1, 2021.

(i) Transfers to Certain Trust Funds.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social
Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

SEC. 406. FLEXIBILITY FOR DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS.

(a) Carryover of unused benefits.—A plan or other arrangement that otherwise satisfies all applicable requirements of sections 106, 125, and 129 of the Internal Revenue Code of 1986 (including any rules or regulations thereunder) shall not fail to be treated as a cafeteria plan or dependent care flexible spending arrangement merely because such plan or arrangement permits participants to carry over (under rules similar to the rules applicable to health flexible spending arrangements) an amount, not in excess of the amount in effect under section 129(a)(2)(A) of such Code, of unused benefits or contributions remaining in a dependent care flexible spending arrangement.
from the plan year ending in 2020 to the plan year ending in 2021.

(b) EXTENSION OF GRACE PERIODS.—A plan or other arrangement that otherwise satisfies all applicable requirements of sections 106, 125, or 129 of the Internal Revenue Code (including any rules or regulations thereunder) shall not fail to be treated as a cafeteria plan or dependent care flexible spending arrangement merely because such plan or arrangement extends the grace period for the plan year ending in 2020 to 12 months after the end of such plan year, with respect to unused benefits or contributions remaining in a dependent care flexible spending arrangement.

(c) DEFINITIONS.—Any term used in this section which is also used in section 106, 125, or 129 of the Internal Revenue Code of 1986 or the rules or regulations thereunder shall have the same meaning as when used in such section or rules or regulations.

(d) PLAN AMENDMENTS.—A plan or other arrangement that otherwise satisfies all applicable requirements of sections 106, 125, and 129 of the Internal Revenue Code of 1986 (including any rules or regulations thereunder) shall not fail to be treated as a cafeteria plan or dependent care flexible spending arrangement merely because such plan or arrangement is amended pursuant to
a provision under this section and such amendment is retroactive, if—

(1) such amendment is adopted no later than the last day of the plan year in which the amendment is effective, and

(2) the plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.

SEC. 407. EMPLOYEE RETENTION CREDIT ALLOWED WITH RESPECT TO EMPLOYMENT OF DOMESTIC WORKERS.

(a) IN GENERAL.—Section 2301(c)(2) of the CARES Act is amended by adding at the end the following new subparagraph:

“(D) EMPLOYERS OF DOMESTIC WORKERS.—In the case of an employer with one or more employees who perform domestic service (within the meaning of section 3121(a)(7) of such Code) in the private home of such employer, with respect to such employees—

“(i) subparagraph (A) shall be applied—
“(I) by substituting ‘employing an employee who performs domestic service in the private home of such employer’ for ‘carrying on a trade or business’ in clause (i) thereof, and

“(II) by substituting ‘such employment’ for ‘the operation of the trade or business’ in clause (ii)(I) thereof.

“(ii) subclause (II) of subparagraph (A)(ii) shall not apply, and

“(iii) such employer shall be treated as a large employer.”.

(b) Denial of Double Benefit.—Section 2301(h)(2) of the CARES Act is amended—

(1) by striking “shall not be taken into account for purposes of” and inserting “shall not be taken into account—

“(A) for purposes of”,

(2) by striking the period at the end and inserting “, and”, and

(3) by adding at the end the following:

“(B) if such wages are paid for domestic service described in subsection (c)(2)(E), as em-
employment-related expenses for purposes of section 21 of such Code.

In the case of any individual who pays wages for domestic service described in subsection (c)(2)(E) and receives a reimbursement for such wages which is excludible from gross income under section 129 of such Code, such wages shall not be treated as qualified wages for purposes of this section.”.

(e) Effective Date.—The amendments made by this section shall take effect as if included in section 2301 of the CARES Act.

SEC. 408. CHILD CARE STABILIZATION FUNDS.

(a) In General.—Section 418(a)(3) of the Social Security Act (42 U.S.C. 618(a)(3)) is amended by striking “$2,917,000,000 for each of fiscal years 2017 and 2018” and inserting “$10,000,000,000 for each of fiscal years 2020 through 2024”.

(b) Additional Funds Not Subject to State Match Requirement.—With respect to the amounts appropriated in section 418(a)(3) of the Social Security Act in excess of $2,917,000,000 for each of fiscal years 2020 and 2021, section 418(a)(2)(C) of such Act shall be applied and administered with respect to any State that is entitled to receive the entire amount that would be allotted to the State under section 418(a)(2)(B) of such Act for
the fiscal year in the absence of this section, as if the Federal medical assistance percentage for the State for the fiscal year were 100 percent.

SEC. 409. FAMILY CARE FOR ESSENTIAL WORKERS.

(a) INCREASE IN FUNDING.—The amount specified in subsection (c) of section 2003 of the Social Security Act for purposes of subsections (a) and (b) of such section is deemed to be $2,550,000,000 for fiscal year 2020, of which $850,000,000 shall be obligated by States during calendar year 2020 in accordance with subsection (b) of this section.

(b) RULES GOVERNING USE OF ADDITIONAL FUNDS.—

(1) IN GENERAL.—Funds are used in accordance with this subsection if—

(A) the funds are used for—

(i) child care services for a child of an essential worker; or

(ii) daytime care services or other adult protective services for an individual who—

(I) is a dependent, or a member of the household of, an essential worker; and

(II) requires the services;
(B) the funds are provided to reimburse an essential worker for the cost of obtaining the services (including child and adult care services obtained on or after the date the Secretary of Health and Human Services declared a public health emergency pursuant to section 319 of the Public Health Service Act on January 31, 2020, entitled “Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus”), to a provider of child or adult care services, or to establish a temporary child care facility operated by a State or local government;

(C) eligibility for the funds or services, and the amount of funds or services provided, is not conditioned on a means test;

(D) the funds are used in consultation with the lead agency designated pursuant to section 658D(a) of the Child Care and Development Block Grant Act of 1990 by the State involved and subject to the limitations in section 2005 of the Social Security Act, except that, for purposes of this subparagraph—
(i) paragraphs (3), (5), and (8) of section 2005(a) of such Act shall not apply; and

(ii)(I) the limitation in section 2005(a)(7) of such Act shall not apply with respect to any standard which the State involved determines would impede the ability of the State to provide emergency temporary care to a child, dependent, or household member referred to in subparagraph (A) of this paragraph if the emergency temporary care would not endanger the health, safety, or development of children who received the care and care would otherwise not be available to support the immediate, short-term family care needs of essential workers; and

(II) if the State determines that such a standard would be so impeding, the State shall report the determination to the Secretary, including a description of how exempting standards that may impede the ability of the State to provide emergency temporary care did not endanger the health, safety, or development of children
who received emergency temporary care,
separately from the annual report to the
Secretary by the State;
(E) the funds are used to supplement, not
supplant, State general revenue funds for child
care assistance; and
(F) the funds are not used for child care
costs that are—

(i) covered by funds provided under
the Head Start Act, a preschool develop-
ment grant under section 9121 of the
Every Student Succeeds Act (42 U.S.C.
9831 note), the Child Care and Develop-
ment Block Grant Act of 1990, section
418 of the Social Security Act, or another
federally funded dependent care program;
or

(ii) reimbursable by the Federal
Emergency Management Agency.

(2) ESSENTIAL WORKER DEFINED.—In para-
graph (1), the term “essential worker” means—
(A) a health sector employee;
(B) an emergency response worker;
(C) a child care worker;
(D) a sanitation worker;
(E) a worker at a business which a State or local government official has determined must remain open to serve the public during the emergency referred to in paragraph (1)(B); and

(F) any other worker who cannot telework, and whom the State deems to be essential during the emergency referred to in paragraph (1)(B).

SEC. 410. INFRASTRUCTURE GRANTS TO IMPROVE CHILD CARE SAFETY.

(a) In General.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by inserting after section 418 the following:

“SEC. 418A. INFRASTRUCTURE GRANTS TO IMPROVE CHILD CARE SAFETY.

(a) Short Title.—This section may be cited as the ‘Infrastructure Grants To Improve Child Care Safety Act of 2020’.

(b) Needs Assessments.—

“(1) Immediate needs assessment.—

“(A) In general.—The Secretary shall conduct an immediate needs assessment of the condition of child care facilities throughout the United States (with priority given to child care facilities that receive Federal funds), that—
“(i) determines the extent to which the COVID–19 pandemic has created immediate infrastructure needs, including infrastructure-related health and safety needs, which must be addressed for child care facilities to operate in compliance with public health guidelines;

“(ii) considers the effects of the pandemic on a variety of child care centers, including home-based centers; and

“(iii) considers how the pandemic has impacted specific metrics, such as—

“(I) capacity;

“(II) investments in infrastructure changes;

“(III) the types of infrastructure changes centers need to implement and their associated costs;

“(IV) the price of tuition; and

“(V) any changes or anticipated changes in the number and demographic of children attending.

“(B) TIMING.—The immediate needs assessment should occur simultaneously with the first grant-making cycle under subsection (c).
“(C) REPORT.—Not later than 1 year after the date of the enactment of this section, the Secretary shall submit to the Congress a report containing the result of the needs assessment conducted under subparagraph (A), and make the assessment publicly available.

“(2) LONG-TERM NEEDS ASSESSMENT.—

“(A) IN GENERAL.—The Secretary shall conduct a long-term assessment of the condition of child care facilities throughout the United States (with priority given to child care facilities that receive Federal funds). The assessment may be conducted through representative random sampling.

“(B) REPORT.—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report containing the results of the needs assessment conducted under subparagraph (A), and make the assessment publicly available.

“(c) CHILD CARE FACILITIES GRANTS.—

“(1) GRANTS TO STATES.—

“(A) IN GENERAL.—The Secretary may award grants to States for the purpose of acquiring, constructing, renovating, or improving
child care facilities, including adapting, re-configuring, or expanding facilities to respond to the COVID–19 pandemic.

“(B) PRIORITIZED FACILITIES.—The Secretary may not award a grant to a State under subparagraph (A) unless the State involved agrees, with respect to the use of grant funds, to prioritize—

“(i) child care facilities primarily serving low-income populations;

“(ii) child care facilities primarily serving children who have not attained the age of 5 years;

“(iii) child care facilities that closed during the COVID–19 pandemic and are unable to open without making modifications to the facility that would otherwise be required to ensure the health and safety of children and staff; and

“(iv) child care facilities that serve the children of parents classified as essential workers during the COVID–19 pandemic.

“(C) DURATION OF GRANTS.—A grant under this subsection shall be awarded for a period of not more than 5 years.
“(D) APPLICATION.—To seek a grant under this subsection, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, which information shall—

“(i) be disaggregated as the Secretary may require; and

“(ii) include a plan to use a portion of the grant funds to report back to the Secretary on the impact of using the grant funds to improve child care facilities.

“(E) PRIORITY.—In selecting States for grants under this subsection, the Secretary shall prioritize States that—

“(i) plan to improve center-based and home-based child care programs, which may include a combination of child care and early Head Start or Head Start programs;

“(ii) aim to meet specific needs across urban, suburban, or rural areas as determined by the State; and

“(iii) show evidence of collaboration with—
“(I) local government officials;
“(II) other State agencies;
“(III) nongovernmental organizations, such as—
“(aa) organizations within the philanthropic community;
“(bb) certified community development financial institutions as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702) that have been certified by the Community Development Financial Institutions Fund (12 U.S.C. 4703); and
“(cc) organizations that have demonstrated experience in—
“(AA) providing technical or financial assistance for the acquisition, construction, renovation, or improvement of child care facilities;
“(BB) providing technical, financial, or managerial assistance to child care providers; and

“(CC) securing private sources of capital financing for child care facilities or other low-income community development projects; and

“(IV) local community organizations, such as—

“(aa) child care providers;

“(bb) community care agencies;

“(cc) resource and referral agencies; and

“(dd) unions.

“(F) CONSIDERATION.—In selecting States for grants under this subsection, the Secretary shall consider—

“(i) whether the applicant—

“(I) has or is developing a plan to address child care facility needs; and
“(II) demonstrates the capacity
to execute such a plan; and
“(ii) after the date the report required
by subsection (b)(1)(C) is submitted to the
Congress, the needs of the applicants
based on the results of the assessment.
“(G) DIVERSITY OF AWARDS.—In award-
ing grants under this section, the Secretary
shall give equal consideration to States with
varying capacities under subparagraph (F).
“(H) MATCHING REQUIREMENT.—
“(i) IN GENERAL.—As a condition for
the receipt of a grant under subparagraph
(A), a State that is not an Indian tribe
shall agree to make available (directly or
through donations from public or private
entities) contributions with respect to the
cost of the activities to be carried out pur-
suant to subparagraph (A), which may be
provided in cash or in kind, in an amount
equal to 10 percent of the funds provided
through the grant.
“(ii) DETERMINATION OF AMOUNT
CONTRIBUTED.—Contributions required by
clause (i) may include—
“(I) amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government; or

“(II) philanthropic or private-sector funds.

“(I) REPORT.—Not later than 6 months after the last day of the grant period, a State receiving a grant under this paragraph shall submit a report to the Secretary as described in subparagraph (D)—

“(i) to determine the effects of the grant in constructing, renovating, or improving child care facilities, including any changes in response to the COVID–19 pandemic and any effects on access to and quality of child care; and

“(ii) to provide such other information as the Secretary may require.

“(J) AMOUNT LIMIT.—The annual amount of a grant under this paragraph may not exceed $35,000,000.

“(2) GRANTS TO INTERMEDIARY ORGANIZATIONS.—
“(A) IN GENERAL.—The Secretary may award grants to intermediary organizations, such as certified community development financial institutions, tribal organizations, or other organizations with demonstrated experience in child care facilities financing, for the purpose of providing technical assistance, capacity building, and financial products to develop or finance child care facilities.

“(B) APPLICATION.—A grant under this paragraph may be made only to intermediary organizations that submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(C) PRIORITY.—In selecting intermediary organizations for grants under this subsection, the Secretary shall prioritize intermediary organizations that—

“(i) demonstrate experience in child care facility financing or related community facility financing;

“(ii) demonstrate the capacity to assist States and local governments in developing child care facilities and programs;
“(iii) demonstrate the ability to leverage grant funding to support financing tools to build the capacity of child care providers, such as through credit enhancements;

“(iv) propose to meet a diversity of needs across States and across urban, suburban, and rural areas at varying types of center-based, home-based, and other child care settings, including early care programs located in freestanding buildings or in mixed-use properties; and

“(v) propose to focus on child care facilities primarily serving low-income populations and children who have not attained the age of 5 years.

“(D) AMOUNT LIMIT.—The amount of a grant under this paragraph may not exceed $10,000,000.

“(3) REPORT.—Not later than the end of fiscal year 2024, the Secretary shall submit to the Congress a report on the effects of the grants provided under this subsection, and make the report publicly accessible.
“(d) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—To carry out this section, there is authorized to be appropriated $10,000,000,000 for fiscal year 2020, which shall remain available through fiscal year 2024.

“(2) RESERVATIONS OF FUNDS.—

“(A) INDIAN TRIBES.—The Secretary shall reserve 3 percent of the total amount made available to carry out this section, for payments to Indian tribes.

“(B) TERRITORIES.—The Secretary shall reserve 3 percent of the total amount made available to carry out this section, for payments to territories.

“(3) GRANTS FOR INTERMEDIARY ORGANIZATIONS.—Not less than 10 percent and not more than 15 percent of the total amount made available to carry out this section may be used to carry out subsection (c)(2).

“(4) LIMITATION ON USE OF FUNDS FOR NEEDS ASSESSMENTS.—Not more than $5,000,000 of the amounts made available to carry out this section may be used to carry out subsection (b).
“(e) DEFINITION OF STATE.—In this section, the term ‘State’ has the meaning provided in section 419, except that it includes the Commonwealth of the Northern Mariana Islands and any Indian tribe.”.

(b) EXEMPTION OF TERRITORY GRANTS FROM LIMITATION ON TOTAL PAYMENTS TO THE TERRITORIES.—Section 1108(a)(2) of such Act (42 U.S.C. 1308(a)(2)) is amended by inserting “418A(c),” after “413(f),”.