

# **Child Care and Development Block Grant**

## **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 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
- (5) 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.

## **SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.**

The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

## **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.

(b) Duties -

- (1) In general-The lead agency shall-
  - (A) administer, directly or through other State governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;
  - (B) develop the State plan to be submitted to the Secretary under section 658E(a);
  - (C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State with sufficient time and Statewide distribution of the notice of such hearing to provide to the

public an opportunity to comment on the provision of child care services under the State plan; and

(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

(2) Development of plan-In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government.

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

(a) Application-To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including-

(1) an assurance that the State will comply with the requirements of this subchapter; and

(2) a State plan that meets the requirements of subsection (c).

(b) Period Covered by Plan-The State plan contained in the application under subsection (a) shall be designed to be implemented during a 2-year period.

(c) Requirements of a Plan-

(1) Lead agency-The State plan shall identify the lead agency designated 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);

(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-Certify that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children

are in the care of such providers and provide a detailed description of such procedures.

(C) Parental complaints-Certify that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request and provide a detailed description of how such record is maintained and is made available.

(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.

(E) Compliance with State Licensing Requirements—

(i) In General-Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

(ii) Indian Tribes and Tribal Organizations -In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter.

(F) Establishment of health and safety requirements-Certify that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include-

(i) the prevention and control of infectious diseases (including immunization);

(ii) building and physical premises safety; and

(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

(G) Compliance with state and local health and safety requirements-Certify that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

(H) Meeting the Needs of Certain Populations -Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families that are at risk of becoming dependent on such assistance program.

(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 subparagraphs (B) through (D).

(B) Child care services and related activities-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) 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.

(C) Limitation on Administrative Costs - Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term ‘administrative costs’ shall not include the costs of providing direct services.

(D) Assistance for Certain Families - A State shall ensure that a substantial portion of the amounts available after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(H).

(4) Payment rates-

(A) In general-The State plan shall provide assurances 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.

(B) Construction-Nothing in this paragraph shall be construed to create a private right of action.

(5) Sliding fee scale-The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

(d) Approval of Application-The Secretary shall approve an application that satisfies the requirements of this section.

**SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.**

- (a) No Entitlement to Contract or Grant-Nothing in this subchapter shall be construed-
- (1) to entitle any child care provider or recipient of a child care certificate to any contract, grant, or benefit; or
  - (2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.
- (b) Construction of Facilities -
- (1) In General-Except as provided for in section 658O(c)(6), no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.
  - (2) Sectarian agency or organization-In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

**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. 658H. Repealed**

**SEC. 658I. ADMINISTRATION AND ENFORCEMENT.**

- (a) Administration-The Secretary shall-
- (1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;
  - (2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and
  - (3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

(b) Enforcement-

(1) Review of compliance with state plan -The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State.

(2) Noncompliance-

(A) In general-If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that-

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.

(B) Additional sanctions-In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

(C) Notice - The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

(3) Issuance of rules-The Secretary shall establish by rule procedures for-

(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

(B) imposing sanctions under this section.

**SEC. 658J. PAYMENTS.**

(a) In General-Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

(b) Method of Payment.

(1) In general-Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary

adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) Limitation -The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

(c) Spending of Funds by State -Payments to a State from the allotment under section 658O for any fiscal year may be obligated by the State in that fiscal year or in the succeeding fiscal year.

## **SEC. 658K. REPORTS.**

(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 the Secretary-A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

(D) Use of Samples -

(i) Authority -A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregate 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 the 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.

(b) Audits -

(1) Requirement-A State shall, after the close of each program period covered by an application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

(2) Independent Auditor -Audits under this subsection shall be conducted by an entity that is independent of the State that receives assistance under this subchapter and be in accordance with generally accepted auditing principles.

(3) Submission-Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

(4) Repayment of amounts-Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitled under this subchapter.



**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. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.**

(a) Sectarian Purposes and Activities-No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

(b) Tuition -With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for-

- (1) any services provided to such students during the regular school day;
- (2) any services for which such students receive academic credit toward graduation;
- or
- (3) any instructional services which supplant or duplicate the academic program of any public or private school.

**SEC. 658N. NONDISCRIMINATION.**

(a) Religious Nondiscrimination -

(1) Construction -

(A) In general -Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

(B) Exception -A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

(2) Discrimination against child -

(A) In general -A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

(B) Non-funded child care slots -Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded

directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

(3) Employment in general -

(A) Prohibition-A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) Qualified applicants-If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) Present employees-This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

(4) Employment and admission practices-Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

(b) Effect on State Law-Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

**SEC. 6580. 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) Indians 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).

(b) State Allotment -

(1) General rule-From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of-

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

(2) Young child factor-The term `young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

(3) School lunch factor-The term `school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

(4) Allotment percentage -

(A) In general-The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

(B) Limitations-If an allotment percentage determined under subparagraph

(A)-

(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

(C) Per capita income-For purposes of subparagraph (A), per capita income shall be-

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) Payments for the Benefit of Indian Children -

(1) General authority-From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

- (2) Applications and requirements-An application for a grant or contract under this section shall provide that:
- (A) Coordination-The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.
  - (B) Services on reservations -In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.
  - (C) Reports and audits-The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.
- (3) Consideration of secretarial approval-In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration-
- (A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and
  - (B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.
- (4) Three-year limit-Grants or contracts under this section shall be for periods not to exceed 3 years.
- (5) Dual eligibility of Indian children -The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotments to the other States.
- (6) Construction or renovation of facilities -
- (A) Request for use of funds-An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.
  - (B) Determination-With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.
  - (C) Limitation-The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction

or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.

(D) Uniform procedures-The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.

(d) Data and Information-The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotment provided for in subsection (b).

(e) Reallotments -

(1) In General-Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under Section 658(d), in the period for which the allotment is made available, shall be reallotted by the secretary to other States in proportion to the original allotments to the other States.

(2) Limitations -

(A) Reduction-The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

(B) Reallotments-The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) Amounts reallotted -For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(4) Indian Tribes or Tribal Organizations -Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.

(f) Definition-For the purposes of this section, the term `State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

## **SEC. 658P. 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) 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; 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).

(4) Eligible child care provider-The term `eligible child care provider' means-

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that-

(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F);applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

(5) Family child care provider-The term `family child care provider' means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

(6) Indian tribe-The term `Indian tribe' has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(7) Lead agency-The term `lead agency' means the agency designated under section 658B(a).

(8) Parent-The term `parent' includes a legal guardian or other person standing in loco parentis.

(9) Secretary-The term `Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

(10) Sliding fee scale-The term `sliding fee scale' means a system of cost sharing by a family based on income and size of the family.

(11) State-The term `State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands

(14) Tribal organization-

(A) In general-The term `tribal organization' has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(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)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

**SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.**

Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

**SEC. 658R. SEVERABILITY.**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

**SEC. 658S. MISCELLANEOUS PROVISIONS**

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need."

**Social Security Act - Part A of title IV of the Social Security Act (42 U.S.C. 601-617) is amended by adding at the end of the following new section:**

**SEC. 418. FUNDING FOR CHILD CARE.**

(a) General Child Care Entitlement-

(1) General Entitlement-Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to the greater of-

(A) the total amount required to be paid to the State under section 403 for fiscal year 1994 or 1995 (whichever is greater) with respect to expenditures for child care under subsections 402(g) and (i) of section 402 (as in effect before October 1, 1995): or

(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the subsections referred to in subparagraph (A).

(2) Remainder -

(A) Grants -The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (4) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

(B) Allotments to States -The total amount available to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of Federal payments to each State under section 403(n) (as such section was in effect before October 1, 1995.)

(C) Federal Matching of State Expenditures Exceeding Historical Expenditures -The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for fiscal year (as defined in section 1905(b), as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).

(D) Redistribution -

(i) In General -With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii) that any amounts allotted to a State under this paragraph for such fiscal year will not be used by such State during the fiscal year for carrying out the purpose for which such amounts are allotted, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to 1 or more States which apply for such funds to the extent the



Secretary determines that such States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 403(n) (as such section was in effect before October 1, 1995) by substituting, “the number of children residing in all States applying for such funds” for “the number of children residing in the United States in the second preceding fiscal year.”

(ii) Time of determination and distribution - The determination of the Secretary under clause (I) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (I) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State’s payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

(3) Appropriation -For grants under this section, there are appropriated-

(A) \$1,967,000,000 for fiscal year 1997;

(B) \$2,067,000,000 for fiscal year 1998;

(C) \$2,167,000,000 for fiscal year 1999;

(D) \$2,367,000,000 for fiscal year 2000;

(E) \$2,567,000,000 for fiscal year 2001;

(F) \$2,717,000,000 for fiscal year 2002.

(4) Indian tribes -The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

(5) Data Used to Determine State and Federal Shares of Expenditures -In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii),and (iii)(III) of section 403(a)(1)(D).

(b) Use of Funds-

(1) In general-Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

(2) Use for certain populations -A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

(c) Application of Child Care and Development Block Grant Act of 199-Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990,

integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

(d) Definitions-As used in this section, the term "State" means each of the 50 States and the District of Columbia.