[DISCUSSION DRAFT]

H. R. _____

To promote increased access to paid family and medical leave and affordable child care in America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. ______________ introduced the following bill; which was referred to the Committee on ____________________

A BILL

To promote increased access to paid family and medical leave and affordable child care in America, 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 “Protecting Worker Paychecks and Family Choice Act”.

6 SEC. 2. TABLE OF CONTENTS.

7 The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
DIVISION A—EXPANDING ACCESS TO PAID FAMILY AND MEDICAL LEAVE

Sec. 101. Modifications to employer credit for paid family and medical leave.
Sec. 102. Family savings accounts.
Sec. 103. Expand small employer pooling options for paid family and medical leave.
Sec. 104. Promoting equitable access to paid family leave.
Sec. 105. Working Families Flexibility Act.

DIVISION B—EXPANDING ACCESS TO AFFORDABLE CHILD CARE

Sec. 201. Improving the employer-provided child care tax credit.
Sec. 202. Increasing parent choice and preventing the child care cliff.
Sec. 203. Targeting child care funds based on poverty.
Sec. 204. Working Families Child Care Access Act.
Sec. 205. Modernizing financing of early care and education in America.

DIVISION C—CHILD CARE STABILIZATION FUND OPTION

Sec. 301. Family Child Care Networks Act of 2021.
Sec. 302. Increasing access to safe child care facilities.
Sec. 303. Expanding Employer-Sponsored Child Care Grants.
Sec. 304. Child Care Funds Accountability Act.

1 DIVISION A—EXPANDING ACCESS TO PAID FAMILY AND MEDICAL LEAVE

2 SEC. 101. MODIFICATIONS TO EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE.

3 (a) CREDIT MADE PERMANENT AND LIMITED TO FIRST 5 YEARS AFTER ESTABLISHMENT OF PLAN.—

4 (1) IN GENERAL.—Section 45S(i) of the Internal Revenue Code of 1986 is amended to read as follows:

5 (2) PHASE-OUT.—Section 45S of such Code is amended by adding at the end the following new subsection:
“(i) CREDIT LIMITED TO FIRST 5 YEARS AFTER ESTABLISHMENT OF PLAN.—

“(1) IN GENERAL.—No credit shall be allowed under this section with respect to any taxpayer after the 5-taxable-year period beginning with the taxable year which includes the date on which the taxpayer first has in place a policy described in subsection (c)(1).

“(2) PHASE-DOWN OF CREDIT.—The credit determined under this section (without regard to this subsection) shall be reduced by—

“(A) in the case of the fourth taxable year in the 5-taxable-year period described in paragraph (1), 25 percent of the amount of such credit, and

“(B) in the case of the fifth taxable year in such 5-taxable-year period, 50 percent of the amount of such credit.

“(3) TRANSITIONAL RULE.—The 5-taxable-year period described in paragraph (1) shall not be treated as beginning before the beginning of the taxpayer’s first taxable year beginning after December 31, 2022.”.

(b) ENHANCED CREDIT FOR NEW PLANS OF SMALL EMPLOYERS.—
(1) IN GENERAL.—Section 45S of such Code is amended by adding at the end the following new subsection:

“(j) ENHANCED CREDIT FOR CERTAIN NEW PLANS OF SMALL EMPLOYERS.—

“(1) IN GENERAL.—In the case of an eligible small employer—

“(A) subsection (a)(2) shall be applied—

“(i) by substituting ‘25 percent’ for ‘12.5 percent’, and

“(ii) by substituting ‘50 percent’ for ‘25 percent’ (determined without regard to the substitution described in clause (i)),

“(B) the credit determined under subsection (a)(1) for any taxable year shall be increased by the applicable percentage (determined after application of subparagraph (A)) of the sum of—

“(i) so much of the amounts paid during such taxable year as administrative expenses of carrying out the policy described in subsection (c)(1) (other than any amounts paid to establish such policy), including payments to third-party administrators and premiums for short-term dis-
ability insurance, as do not exceed $50,000, plus

“(ii) in the case of the taxable year which includes the date on which the policy described in subsection (c)(1) takes effect, so much of the amounts paid to establish such policy as do not exceed $1,000.

“(2) ELIGIBLE SMALL EMPLOYER.—For purposes of this subsection, the term ‘eligible small employer’ means, with respect to any taxable year, any eligible employer—

“(A) the gross receipts of which for such taxable year do not exceed $25,000,000,

“(B) which employed on average 50 or fewer employees on business days during the taxable year, and

“(C) which did not have a policy described in subsection (c)(1) in place at any time prior to the date of the enactment of this Act,”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(e) EMPLOYER REQUIREMENTS FOR RATE OF PAYMENT.—
(1) IN GENERAL.—Subsection (c) of section 45S of such Code is amended—

(A) in paragraph (1)(B), by inserting after the first sentence the following: “For purposes of determining the rate of payment under the program, any family and medical leave which is paid by a State or local government or required by State or local law, determined as a percentage of the wages normally paid to such employee for services performed for the employer, shall be taken into account.”, and

(B) in paragraph (4)—

(i) by striking “For purposes of this section, any” and inserting “Any”, and

(ii) by striking “amount of paid family and medical leave provided by the employer” and inserting “wages taken into account under subsection (a)”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 13403 of Public Law 115–97.

(d) TECHNICAL CORRECTIONS.—

(1) IN GENERAL.—Section 45S of such Code is amended—
(A) in subsection (b)(1), by striking “credit allowed” and inserting “wages taken into account”,

(B) in subsection (c), by striking paragraph (3) and inserting the following:

“(3) AGGREGATION RULE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), all persons which are treated as a single employer under subsections (b) and (c) of section 414 shall be treated as a single employer.

“(B) EXCEPTION.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to any person who establishes to the satisfaction of the Secretary that such person has a substantial and legitimate business reason for failing to provide a written policy described in paragraph (1) or (2).

“(ii) SUBSTANTIAL AND LEGITIMATE BUSINESS REASON.—For purposes of clause (i), the term ‘substantial and legitimate business reason’ shall not include the operation of a separate line of business, the rate of wages or category of jobs for
employees (or any similar basis), or the ap-
lication of State or local laws relating to
family and medical leave, but may include
the grouping of employees of a common
law employer.”, and
(C) in subsection (d)(2), by inserting “, as
determined on an annualized basis (pro-rata for
part-time employees),” after “compensation”.

(2) EFFECTIVE DATE.—The amendments made
by this subsection shall take effect as if included in
section 13403 of Public Law 115–97.

SEC. 102. FAMILY SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chap-
ter 1 of the Internal Revenue Code of 1986 is amended
by redesignating section 224 as section 225 and by insert-
ing after section 223 the following new section:

“SEC. 224. FAMILY SAVINGS ACCOUNTS.

“(a) DEDUCTION ALLOWED.—In the case of any eli-
gible individual, there shall be allowed as a deduction for
such taxable year an amount equal to the aggregate
amount paid in cash during such taxable year by or on
behalf of such individual to a family savings account of
such individual.

“(b) LIMITATIONS.—
“(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed $5,000.

“(2) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(3) COORDINATION WITH EXCLUSION OF EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under subsection (a) with respect to any contribution which excludible from gross income under subsection (g).

“(c) FAMILY SAVINGS ACCOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘family savings account’ means a family savings account established by the Federal Thrift Investment Board in the Family Savings Account Fund exclusively for the purpose of paying the qualified expenses of the account beneficiary. Such Board shall ensure the following with respect to such accounts:

“(A) No contribution will be accepted—
“(i) unless it is in cash, or

“(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds the dollar amount in effect under subsection (b)(1).

“(B) The interest of an individual in the balance in such individual’s account is non-forfeitable.

“(2) QUALIFIED EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified expenses’ means, with respect to an account beneficiary—

“(i) amounts paid for child care for any dependent child of the account beneficiary,

“(ii) amounts paid in lieu of paid family and medical leave for the account beneficiary,

“(iii) qualified education expenses of the account beneficiary or the account beneficiary’s spouse or dependents, and

“(iv) amounts paid for elder care for any ancestor of the account beneficiary or of the account beneficiary’s spouse.
“(B) PAID FAMILY AND MEDICAL LEAVE.—For purposes of subparagraph (A)(ii), amounts shall be treated as paid in lieu of paid family and medical leave to the extent that—

“(i) the account beneficiary is on family and medical leave (as defined in 45S(e)), and

“(ii) such amounts do not exceed the excess (if any) of—

“(I) the wages which the account beneficiary would have been paid if not on such leave, over

“(II) the wages paid to the account beneficiary while on such leave.

“(C) QUALIFIED EDUCATION EXPENSES.—For purposes of subparagraph (A)(iii), the term ‘qualified education expenses’ means qualified higher education expenses (as defined in section 529(e)(3)) and any of the following expenses in connection with enrollment or attendance at, or for students enrolled at or attending, an elementary or secondary public, private, or religious school:

“(i) Tuition.
“(ii) Curriculum and curricular materials.

“(iii) Books or other instructional materials.

“(iv) Online educational materials.

“(v) Tuition for tutoring or educational classes outside of the home, including at a tutoring facility, but only if the tutor or instructor is not related to the student and—

“(I) is licensed as a teacher in any State,

“(II) has taught at an eligible educational institution, or

“(III) is a subject matter expert in the relevant subject.

“(vi) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination, or any examinations related to college or university admission.

“(vii) Fees for dual enrollment in an institution of higher education.

“(viii) Educational therapies for students with disabilities provided by a li-
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censed or accredited practitioner or pro-
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vider, including occupational, behavioral,
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physical, and speech-language therapies.

Such term shall include expenses for the pur-
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poses described in clauses (i) through (viii) in
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connection with a homeschool (whether treated
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as a homeschool or a private school for pur-
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poses of applicable State law).

“(3) ACCOUNT BENEFICIARY.—The term ‘ac-
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count beneficiary’ means the individual on whose be-
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half the family savings account was established.

“(4) CERTAIN RULES TO APPLY.—Rules similar
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to the following rules shall apply for purposes of this
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section:

“(A) Section 219(d)(2) (relating to no de-
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duction for rollovers).

“(B) Section 219(f)(3) (relating to time
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when contributions deemed made).

“(C) Except as provided in section 106(d),
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section 219(f)(5) (relating to employer pay-
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ments).

“(D) Section 408(g) (relating to commu-
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nity property laws).

“(E) Section 408(h) (relating to custodial
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accounts).
“(d) Tax Treatment of Accounts.—

“(1) In General.—A family savings account is exempt from taxation under this subtitle unless such account has ceased to be a family savings account.

“(2) Account Terminations.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to family savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified expenses.

“(e) Tax Treatment of Distributions.—

“(1) Amounts Used for Qualified Expenses.—Any amount paid or distributed out of a family savings account which is used exclusively to pay qualified expenses of any account beneficiary shall not be includible in gross income.

“(2) Inclusion of Amounts Not Used for Qualified Expenses.—Any amount paid or distributed out of a family savings account which is not used exclusively to pay the qualified expenses of the account beneficiary shall be included in the gross income of such beneficiary.

“(3) Excess Contributions Returned Before Due Date of Return.—
“(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to the family savings account of an individual, paragraph (2) shall not apply to distributions from the family savings account of such individual (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such individual for such year) if—

“(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual’s return for such taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.

“(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term ‘excess contribution’ means any contribution (other than a rollover contribution described in paragraph (5) or section 220(f)(5)) which is neither
excludable from gross income under subsection (g) nor deductible under subsection (a).

“(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED EXPENSES.—

“(A) IN GENERAL.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from a family savings account of such beneficiary which is includible in gross income under paragraph (2) shall be increased by 20 percent of the amount which is so includible.

“(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

“(5) DENIAL OF DOUBLE BENEFIT.—For purposes of determining the amount of any deduction or credit under this title, any payment or distribution out of a family savings account for qualified expenses shall not be treated as an expense paid by the account beneficiary.

“(6) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual’s interest in a family savings account to an individual’s spouse or
former spouse under a divorce or separation instrument described in clause (i) of section 121(d)(3)(C) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a family savings account with respect to which such spouse is the account beneficiary.

“(7) Treatment after death of account beneficiary.—

“(A) Treatment if designated beneficiary is spouse.—If the account beneficiary’s surviving spouse acquires such beneficiary’s interest in a family savings account by reason of being the designated beneficiary of such account at the death of the account beneficiary, such family savings account shall be treated as if the spouse were the account beneficiary.

“(B) Other cases.—

“(i) In general.—If, by reason of the death of the account beneficiary, any person acquires the account beneficiary’s interest in a family savings account in a
case to which subparagraph (A) does not apply—

“(I) such account shall cease to be a family savings account as of the date of death, and

“(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such beneficiary, in such person’s gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary’s gross income for the last taxable year of such beneficiary.

“(ii) Special rules.—

“(I) Reduction of inclusion for predeath expenses.—The amount includible in gross income under clause (i) by any person (other than the estate) shall be reduced by the amount of qualified expenses which were incurred by the decedent before the date of the decedent’s
death and paid by such person within
1 year after such date.

“(II) DEDUCTION FOR ESTATE
TAXES.—An appropriate deduction
shall be allowed under section 691(c)
to any person (other than the dece-
dent or the decedent’s spouse) with
respect to amounts included in gross
income under clause (i) by such per-
son.

“(8) ROLLOVERS TO INDIVIDUAL RETIREMENT
ACCOUNTS.—In the case of an account beneficiary
who has attained age 65—

“(A) IN GENERAL.—Paragraph (2) shall
not apply to any amount paid or distributed
from a family savings account to the account
beneficiary to the extent the amount received is
paid into an individual retirement account for
the benefit of the account beneficiary not later
than the 60th day after the day on which the
beneficiary receives the payment or distribution.

“(B) LIMITATION.—This paragraph shall
not apply to any amount described in subpara-
graph (A) received by an individual from a fam-
ily savings account if, at any time during the 1-
year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a family savings account which was not includible in the individual’s gross income because of the application of this paragraph.

“(f) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means, with respect to any taxable year, any individual who—

“(1) has been issued a social security number by the Social Security Administration, and

“(2) has attained the age of 18 as of the close of such taxable year.

“(g) EXCLUSION OF EMPLOYER CONTRIBUTIONS.—Except as otherwise provided by the Secretary, in the case of an employee who is an eligible individual, amounts contributed by such employee’s employer to any family savings account of such employee shall be excludible from gross income under rules similar to the rules of section 106(b).

“(h) COST-OF-LIVING ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2022, the dollar amount in subsection (b)(1) shall 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 such taxable year begins determined by substituting ‘calendar year 2021’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

For purposes of this paragraph, section 1(f)(4) shall be applied by substituting ‘March 31’ for ‘August 31’, and the Secretary shall publish the adjusted amounts under subsection (b)(1) for taxable years beginning in any calendar year no later than June 1 of the preceding calendar year.

“(2) Rounding.—If any increase under paragraph (1) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

“(i) Reports.—The Federal Thrift Investment Board shall make such reports to the Secretary and to the account beneficiary regarding contributions, distributions, the return of excess contributions, and such other matters with respect to family savings accounts as the Secretary may provide.”.

(b) Establishment of Family Savings Account Fund and Family Savings Accounts.—
(1) FAMILY SAVINGS ACCOUNT FUND.—There is established in the Treasury of the United States a Family Savings Account Fund, consisting of all contributions made to family savings accounts under section 224 of the Internal Revenue Code of 1986.

(2) FAMILY SAVINGS ACCOUNTS.—In addition to the responsibilities of the Federal Thrift Investment Board under subchapters III and VII of chapter 84 of title 5 United States Code, the Board shall establish a family savings account within the Family Savings Account Fund for each eligible individual (as defined in section 224(f) of the Internal Revenue Code of 1986, without regard to paragraph (2) thereof) as soon as practicable after the date that such individual attains age 18. Except as otherwise provided by the Board, such accounts shall be maintained and administered by the Board under rules similar to the rules which apply to the Thrift Savings Fund.

c) FEDERAL MATCHING AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish a program under which the Secretary will make annual contributions to family savings accounts of matching-eligible individuals equal to the aggregate amount contributed by such indi-
vidual to such account during the calendar year (but not in excess of $1,000).

(2) Matching-eligible individual.—For purposes of this subsection, the term “matching-eligible individual” means any eligible individual (as defined in section 224(f) of the Internal Revenue Code of 1986) for any calendar year if the adjusted gross income for such individual’s taxable year which ends in or with such calendar year does not exceed $50,000.

(3) Treatment of contributions.—For purposes of section 1324 of title 31, United States Code, contributions made by the Secretary under this section shall be treated in the same manner as a refund due from a credit provision described in subsection (b)(2) of such section.

(d) Treatment of matching amounts under state programs.—If a State establishes a program similar to the program described in subsection (c) for making contributions to family savings accounts of eligible individuals, such contributions shall, at the election of such State, be taken into account either (as provided in such election) under paragraph (2)(C) of section 418(a) of the Social Security Act as an expenditure described in paragraph (1)(A) of such section or as qualified State ex-
penditures for purposes of section 409(a)(7) of the Social Security Act.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (21) the following new paragraph:

“(22) FAMILY SAVINGS ACCOUNTS.—The deduction allowed by section 224.”.

(f) EMPLOYER CONTRIBUTIONS REQUIRED TO BE SHOWN ON W-2.—Section 6051(a) of such Code is amended by striking “and” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “, and”, and by inserting after paragraph (17) the following new paragraph:

“(18) the amount contributed to any family savings account (as defined in section 224(e)) of such employee.”.

(g) PENALTY FOR FAILURE OF EMPLOYER TO MAKE COMPARABLE FAMILY SAVINGS ACCOUNT CONTRIBUTIONS.—Chapter 43 of such Code is amended by adding after section 4980H the following new section:
“SEC. 4980I. FAILURE OF EMPLOYER TO MAKE COMPARABLE FAMILY SAVINGS ACCOUNT CONTRIBUTIONS.

“(a) In General.—In the case of an employer who makes a contribution to the family savings account of any employee during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (b) for such calendar year.

“(b) Rules and Requirements.—Except as otherwise provided by the Secretary, rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

“(c) Regulations.—The Secretary shall issue regulations to carry out the purposes of this section.”.

(h) Tax on Excess Contributions.—Section 4973 of such Code is amended—

(1) by striking “or” at the end of subsection (a)(3), by inserting “or” at the end of subsection (a)(5), and by inserting after subsection (a)(5) the following new paragraph:

“(6) a family savings account (within the meaning of section 224(c)),”, and

(2) by adding at the end the following new subsection:

“(i) Excess Contributions to Family Savings Accounts.—For purposes of this section, in the case of
any family savings account (within the meaning of section 224(e)), the term ‘excess contributions’ means the sum of—

“(1) the aggregate amount contributed for the taxable year to such account which is neither excludable from gross income under section 224(g) nor allowable as a deduction under section 224(a) for such year, and

“(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

“(A) the distributions out of the accounts which were included in gross income under section 224(e)(2), and

“(B) the excess (if any) of—

“(i) the maximum amount allowable as a deduction under section 224(b) for the taxable year, over

“(ii) the amount contributed to the account for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the family savings account in a distribution to which section 224(e)(3) applies shall be treated as an amount not contributed.”.
(i) **Tax on Prohibited Transactions.**—

(1) Section 4975(e) of such Code is amended by adding at the end the following new paragraph:

“(8) **Special Rule for Family Savings Accounts.**—An individual for whose benefit a family savings account (within the meaning of section 224(c)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a family savings account by reason of the application of section 224(d)(2) to such account.”.

(2) Section 4975(e)(1) of such Code is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

“(E) a family savings account described in section 224(e),”.

(j) **Family Savings Accounts May Be Offered Under Cafeteria Plans.**—Section 125(d)(2) of such Code is amended by adding at the end the following new paragraph:
“(E) EXCEPTION FOR FAMILY SAVINGS ACCOUNTS.—Subparagraph (A) shall not apply to a plan to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a family savings account established on behalf of the employee.”.

(k) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) of such Code is amended by inserting “224(e)(8),” before “402(e),”.

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and by inserting after the item relating to section 223 the following new item:

“Sec. 224. Family savings accounts.”.

(3) The table of sections for chapter 43 of such Code is amended by adding after the item relating to section 4980H the following new item:

“Sec. 4980I. Failure of employer to make comparable family savings account contributions.”.

(l) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.
SEC. 103. EXPAND SMALL EMPLOYER POOLING OPTIONS
FOR PAID FAMILY AND MEDICAL LEAVE.

(a) Amendment to Employee Retirement Income Security Act of 1974.—

(1) In general.—Section 3(40)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)) is amended by inserting “, which, for the purposes of this paragraph, may include paid family and medical leave benefits,” after “paragraph (1)”.

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date that is 90 days after the date of enactment of this Act.

(3) Regulations.—The Secretary of Labor shall, in coordination with the issuance of regulations by the Secretary of the Treasury pursuant to subsection (b)(3), issue regulations to implement and ensure compliance with the amendment made by paragraph (1) to ensure consistency and parity in the treatment of paid family medical leave benefits across Federal agencies.

(b) Amendment to Internal Revenue Code of 1986.—

(1) In general.—Section 501(c)(9) of the Internal Revenue Code of 1986 is amended by insert-
ing “disability, paid family and medical leave,” after “life, sick, accident,”.

(2) **Effective Date.**—The amendment made by paragraph (1) shall apply after the date that is 90 days after the date of enactment of this Act, in taxable years ending after such date.

(3) **Regulations.**—The Secretary of the Treasury shall, in coordination with the issuance of regulations by the Secretary of Labor pursuant to subsection (a)(3), issue regulations to implement and ensure compliance with the amendment made by paragraph (1) to ensure consistency and parity in the treatment of paid family medical leave benefits across Federal agencies.

(c) **Report.**—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor and the Secretary of the Treasury shall jointly submit a report to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives with recommendations describing—

(1) statutory or regulatory changes needed to facilitate multi-employer and small business pooling and cost-sharing, such as through multiple employer welfare arrangements, for the purpose of providing paid family and medical leave benefits, including
through the use of short-term disability insurance, to the employees of two or more employers; and

(2) statutory or regulatory changes necessary to allow employers to implement the actions described in paragraph (1) through a tax exempt trust, such as a voluntary employee benefits association, or other mechanism.

SEC. 104. PROMOTING EQUITABLE ACCESS TO PAID FAMILY LEAVE.

Section 418 of the Social Security Act (42 U.S.C. 618) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (e) the following:

“(d) GRANT CONDITION.—

“(1) IN GENERAL.—As a condition of receiving a grant under this section, a State shall provide the parent of an eligible child the option to receive, in accordance with this section, a payment, which may be made on a monthly, biweekly, or weekly basis, for each month in the parental leave period with respect to such eligible child, in lieu of receiving any child care services described in the Child Care and Development Block Grant Act of 1990 during the period.
“(2) AMOUNT.—The amount of a payment made pursuant to paragraph (1) with respect to an eligible child shall be not less than the average subsidy payment in the applicable market area within the State for the provision of child care services for infants, across all categories of care.

“(3) APPLICATION.—To receive a payment pursuant to paragraph (1) with respect to an eligible child, the parent of the eligible child shall submit an application to the lead agency, or agency designated by the lead agency, of the applicable State before the beginning of the parental leave period with respect to the eligible child. The application shall include—

“(A) assurances by the applicant—

“(i) that the eligible child will not be receiving any child care services described in such Act during the period paid for by funds made available under this part; and

“(ii) that the applicant will not be receiving paid parental leave from any other source during the period;

“(B) documentation demonstrating that the applicant was working or attending a job training or educational program, as defined by
the State, for at least 4 consecutive quarters
ending on the date of application; and

“(C) any other such assurances or docu-
mentation the State may require.

“(4) TRANSITION TO CHILD CARE SERVICES.—
A parent of an eligible child receiving a payment
pursuant to paragraph (1) shall be provided the op-
tion to enroll in child care services provided under
such Act immediately after the end of the parental
leave period with respect to the eligible child.

“(5) DEFINITIONS.—In this subsection:

“(A) ELIGIBLE CHILD.—The term ‘eligible
child’ has the meaning given the term in section
658P(4) of such Act without regard to subpara-
graph (C).

“(B) LEAD AGENCY.—The term ‘lead
agency’ has the meaning given the term with
respect to a State in section 658D of such Act.

“(C) PARENTAL LEAVE PERIOD.—The
term ‘parental leave period’ means the 3-month
period beginning on the date of birth or adop-
tion, as applicable, of an eligible child.

“(6) CLARIFICATION.—For purposes of sub-
section (b)(2), a payment pursuant to paragraph (1)
of this subsection, shall be considered child care as-

SEC. 105. WORKING FAMILIES FLEXIBILITY ACT.

(a) COMPENSATORY TIME.—Section 7 of the Fair

Labor Standards Act of 1938 (29 U.S.C. 207) is amended

by adding at the end the following:

“(t) COMPENSATORY TIME OFF FOR PRIVATE EM-

PLOYEES.—

“(1) GENERAL RULE.—An employee may re-

ceive, in accordance with this subsection and in lieu

of monetary overtime compensation, compensatory

time off at a rate not less than one and one-half

hours for each hour of employment for which over-

time compensation is required by this section.

“(2) CONDITIONS.—An employer may provide

compensatory time to employees under paragraph

(1) only if such time is provided in accordance

with—

“(A) applicable provisions of a collective

bargaining agreement between the employer

and the labor organization that has been cer-

tified or recognized as the representative of the

employees under applicable law; or

“(B) in the case of employees who are not

represented by a labor organization that has
been certified or recognized as the representa-
tive of such employees under applicable law, an
agreement arrived at between the employer and
employee before the performance of the work
and affirmed by a written or otherwise
verifiable record maintained in accordance with
section 11(e)—

“(i) in which the employer has offered
and the employee has chosen to receive
compensatory time in lieu of monetary
overtime compensation; and

“(ii) entered into knowingly and vol-
untarily by such employee and not as a
condition of employment.

No employee may receive or agree to receive com-
pensatory time off under this subsection unless the
employee has worked at least 1,000 hours for the
employee’s employer during a period of continuous
employment with the employer in the 12-month pe-
period before the date of agreement or receipt of com-
pensatory time off.

“(3) HOUR LIMIT.—

“(A) MAXIMUM HOURS.—An employee
may accrue not more than 160 hours of com-
pensatory time.
“(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employee’s employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (6). An employer may designate and communicate to the employer’s employees a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

“(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee’s unused compensatory time in excess of 80 hours at any time after giving the employee at least 30 days notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

“(D) POLICY.—Except where a collective bargaining agreement provides otherwise, an employer that has adopted a policy offering compensatory time to employees may, upon giving employees 30 days notice, discontinue such
policy and provide monetary compensation to each employee with accrued compensatory time that has not yet been used for all such compensatory time. Such compensation shall be provided at the rate prescribed by paragraph (6).

“(E) WRITTEN REQUEST.—An employee may withdraw an agreement described in paragraph (2)(B) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time accrued that has not yet been used. Within 30 days of receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

“(4) PRIVATE EMPLOYER ACTIONS.—An employer that provides compensatory time under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any employee for the purpose of—

“(A) interfering with such employee’s rights under this subsection to request or not request compensatory time off in lieu of pay-
ment of monetary overtime compensation for
overtime hours; or

“(B) requiring any employee to use such
compensatory time.

“(5) TERMINATION OF EMPLOYMENT.—An em-
ployee who has accrued compensatory time off au-
thorized to be provided under paragraph (1) shall,
upon the voluntary or involuntary termination of
employment, be paid for the unused compensatory
time in accordance with paragraph (6).

“(6) RATE OF COMPENSATION.—

“(A) GENERAL RULE.—If compensation is
to be paid to an employee for accrued compen-
satory time off, such compensation shall be paid
at a rate of compensation not less than—

“(i) the regular rate received by such
employee when the compensatory time was
earned; or

“(ii) the final regular rate received by
such employee,

whichever is higher.

“(B) CONSIDERATION OF PAYMENT.—Any
payment owed to an employee under this sub-
section for unused compensatory time shall be
considered unpaid overtime compensation.
“(7) USE OF TIME.—An employee—

“(A) who has accrued compensatory time

off authorized to be provided under paragraph

(1); and

“(B) who has requested the use of such

compensatory time,

shall be permitted by the employee’s employer to use

such time within a reasonable period after making

the request if the use of the compensatory time does

not unduly disrupt the operations of the employer.

“(8) DEFINITIONS.—For purposes of this sub-

section—

“(A) the term ‘employee’ does not include

an employee of a public agency; and

“(B) the terms ‘overtime compensation’,

‘compensatory time’, and ‘compensatory time

off’ shall have the meanings given such terms

by subsection (o)(7).”.

(b) REMEDIES.—Section 16 of the Fair Labor Stand-

ards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b), in the first sentence, by

striking “(b) Any employer” and inserting “(b) Ex-

cept as provided in subsection (f), any employer”;

and

(2) by adding at the end the following:
“(f) An employer that violates section 7(t)(4) shall be liable to the employee affected in the amount of the rate of compensation (determined in accordance with section 7(t)(6)(A)) for each hour of compensatory time accrued by the employee and in an additional equal amount as liquidated damages reduced by the amount of such rate of compensation for each hour of compensatory time used by such employee.”.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published in section 516.4 of title 29, Code of Federal Regulations (or any corresponding similar regulation or ruling), to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that such notice reflects the amendments made to such Act by this section.

(d) GAO REPORT.—Beginning 2 years after the date of enactment of this Act and each of the 3 years thereafter, the Comptroller General shall submit a report to Congress providing, with respect to the reporting period immediately prior to each such report—

(1) data concerning the extent to which employers provide compensatory time pursuant to section 7(t) of the Fair Labor Standards Act of 1938, as
added by this Act, and the extent to which employees opt to receive compensatory time;

(2) the number of complaints alleging a violation of such section filed by any employee with the Secretary of Labor;

(3) the number of enforcement actions commenced by the Secretary or commenced by the Secretary on behalf of any employee for alleged violations of such section;

(4) the disposition or status of such complaints and actions described in paragraphs (2) and (3); and

(5) an account of any unpaid wages, damages, penalties, injunctive relief, or other remedies obtained or sought by the Secretary in connection with such actions described in paragraph (3).

(e) Sunset.—This section and the amendments made by this section shall expire 5 years after the date of enactment of this Act.

DIVISION B—EXPANDING ACCESS TO AFFORDABLE CHILD CARE

SEC. 201. IMPROVING THE EMPLOYER-PROVIDED CHILD CARE TAX CREDIT.

(a) Credit Allowed for Reimbursement of Employee Child Care Expenses.—Section 45F(e)(1)(A)
of the Internal Revenue Code of 1986 is amended by strik-
ing “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by add-
ing at the end the following new clause:

“(iv) to reimburse an employee for child care costs necessary for the employ-
ee’s employment.”.

(b) Credit Not Restricted to Child Care Fa-
cilities Providing Employervided Child Care.—

(1) In General.—Section 45F(c)(2)(B) of such Code is amended in clause (i) by inserting “and” after the comma, by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(2) Conforming Amendments.—

(A) The heading for section 45F of such Code is amended to read as follows:

“SEC. 45F Child care business credit.”.

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 of subtitle A of such Code is amended by striking the item relating to section 45F and inserting the fol-
lowing new item:

“45F. Child care business credit.”.
(c) Credit Percentage for Small Employers.—Section 45F(e) of such Code is amended by adding at the end the following new paragraph:

“(4) Credit percentage for small employers.—

“(A) In general.—With respect to a small employer, subsection (a)(1) shall be applied by substituting ‘50 percent’ for ‘25 percent’.

“(B) Small employer.—For the purposes of this paragraph, the term ‘small employer’ means, with respect to any taxable year, any employer if—

“(i) the average number of employees of such employer on business days during such taxable year does not exceed 50, and

“(ii) the gross receipts of such employer during such taxable year do not exceed $25,000,000.”.

(d) Study of Impact of Tax Credit for Employer-Provided Child Care.—

(1) In general.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States, in con-
sultation with the Secretary of the Treasury and the Secretary of Labor, shall—

(A) complete a study that examines the tax credit for employer-provided child care authorized under section 45F of the Internal Revenue Code of 1986 by considering such metrics as—

(i) the characteristics of employers that take the credit, including the size of such employer, whether such employer is in a rural or urban location, and whether such employer also offers a dependent care assistance program described in section 129 of such Code,

(ii) the characteristics of employers that do not take the credit,

(iii) the extent to which employees benefit when employers provide child care and take the credit,

(iv) any challenges identified by employers that do not take the credit, and

(v) any explanations from employers as to why they do or do not take the credit, and

(B) prepare and submit a report to the Committee on Finance of the Senate and the
Committee on Ways and Means of the House of Representatives setting forth the conclusions of the study conducted under subparagraph (A) in such a manner that the recommendations included in the report can inform future legislative action. Such report shall also be made publicly available on the website of the Government Accountability Office.

(2) **PROHIBITION.**—In carrying out the requirements of this section, the Comptroller General of the United States may request qualitative and quantitative information from employers claiming the credit under section 45F of the Internal Revenue Code of 1986, but nothing in this section shall be construed as mandating additional reporting requirements for such employers beyond what is already required by law.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

**SEC. 202. INCREASING PARENT CHOICE AND PREVENTING THE CHILD CARE CLIFF.**

(a) **Preventing the Child Care Cliff.**—Section 418 of the Social Security Act (42 U.S.C. 618), as amended by section 104 of this Act, is amended by redesignating
subsection (e) as subsection (f) and inserting after subsection (d) the following:

“(e) GRANT CONDITION.—As a condition of receiving a grant under this subsection, a State shall have policies and procedures in place to provide a graduated phase-out of child care assistance for parents—

“(1) who are working or attending a job training or educational program; and

“(2) whose family income exceeds the income limit established by the State for initial qualification for child care assistance and does not exceed 85 percent of the State median income for a family of the same size.”.

(b) INCREASING PARENT CHOICE FOR LOW-INCOME FAMILIES.—With respect to each of fiscal years 2022 and 2023, the percentage set forth in section 418(b)(2) of the Social Security Act is deemed to be 100 percent.

SEC. 203. TARGETING CHILD CARE FUNDS BASED ON POVERTY.

Section 418(a)(2)(B) of the Social Security Act (42 U.S.C. 618(a)(2)(B)) is amended—

(1) by striking all that precedes “total” and inserting the following:

“(B) ALLOTMENTS TO STATES.—
“(i) IN GENERAL.—Except as pro-
vided in clause (ii), the”; and

(2) by adding after and below the end the fol-
lowing:

“(ii) SPECIAL RULE.—To the extent
that the total amount referred to in clause
(i) for fiscal year 2022 or for any suc-
ceeding fiscal year exceeds the total
amount so referred to for fiscal year 2020,
the excess shall be allotted among the
States based on the share of each State of
the number of children in poverty who
have not attained 13 years of age.”.

SEC. 204. WORKING FAMILIES CHILD CARE ACCESS ACT.

(a) ADDITIONAL EXPENSES INCLUDED IN DEPEND-
ENT CARE ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Section 129(e) of the Inter-
nal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “or pro-
vision of, those” and inserting “or provision of,
qualified adoption expenses (within the meaning
of section 137(d)), qualified sports expenses,
qualified tutoring expenses, qualifying art ex-
penses, or those”, and
(B) by adding at the end the following new paragraphs:

“(10) QUALIFIED SPORTS EXPENSES.—The term ‘qualified sports expenses’ means expenses paid or incurred for the participation or instruction of a dependent in a program of physical exercise or physical activity.

“(11) QUALIFIED TUTORING EXPENSES.—The term ‘qualified tutoring expenses’ means expenses paid or incurred for the participation or instruction of a dependent in virtual or in-person—

“(A) individual academic tutoring, or

“(B) small-group academic tutoring in a group of four students or fewer.

“(12) QUALIFIED ART EXPENSES.—The term ‘qualified art expenses’ means expenses paid or incurred for the participation or instruction of a dependent in a program of music or art.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2021.

(b) DEPENDENT CARE EXPENSES ALLOWED FOR CHILDREN AND DEPENDENTS UP TO AGE 15.—
(1) IN GENERAL.—Section 129(e)(1) of the Internal Revenue Code of 1986, as amended by subsection (a), is amended—

(A) by striking “or provision of, qualified adoption expenses” and inserting “or provision of, with respect to a qualifying individual, qualified adoption expenses”,

(B) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term’, and

(C) by adding at the end the following:

“(B) SPECIAL RULE.—For purposes of subparagraph (A), the term ‘qualifying individual’ has the meaning given in paragraph (1) of section 21(b), except such paragraph shall be applied by substituting ‘age 15’ for ‘age 13’.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2021.

(e) CARRY FORWARD OF UNUSED BENEFITS.—

(1) IN GENERAL.—Section 129(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(10) BENEFIT CARRY FORWARD RULES.—
“(A) IN GENERAL.—A plan meets the requirements of this paragraph if it provides for the automatic carry forward from the close of a plan year to the succeeding plan year of any aggregate unused contributions totaling $20 or greater.

“(B) SMALL BALANCES.—For purposes of subparagraph (A), if an eligible employee carries a balance of less than $20 at the end of a plan year, such employee may elect to carry forward such balance to the next plan year or, if such employee makes no election, such balance may be forfeited.

“(C) EXCLUSION FROM GROSS INCOME.—No amount shall be included in gross income under this chapter by reason of any carry forward under this paragraph.

“(D) COORDINATION LIMITS.—The maximum amount which may be contributed to a dependent care assistance flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall not be reduced by such unused amount.”.
CONFORMING AMENDMENT.—Section 125(d)(2) of such Code is amended by adding at the end the following new subparagraph:

“(E) EXCEPTION FOR DEPENDENT CARE ASSISTANCE FLEXIBLE SPENDING ARRANGEMENTS.—Subparagraph (A) shall not apply to a dependent care assistance flexible spending arrangement which conforms to the benefit carry forward rules of section 129(d)(10).”.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2021.

(d) INCREASE OF BENEFITS FOR DEPENDENT CARE ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Section 129(a)(2)(A) of the Internal Revenue Code of 1986 is amended by striking “$5,000 ($2,500)” and inserting “$15,000 ($7,500)”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2021.

SEC. 205. MODERNIZING FINANCING OF EARLY CARE AND EDUCATION IN AMERICA.

(a) PURPOSE AND OBJECTIVES.—The purpose of this section is to establish a commission to make recommenda-
tions for modernizing Federal financing of early care and education programs in order to promote—

(1) access to high quality child care and early education settings that support healthy development and well-being of young children;

(2) affordability of high quality early learning and education opportunities for children living in poverty and in disadvantaged communities;

(3) parent choice and flexibility that respects the role parents play in choosing child care that is best suited to fit their child’s needs; and

(4) a more streamlined, equitable, and sustainable Federal financing framework to support the success of future generations.

(b) Bipartisan Commission on Early Childhood Education Financing.—

(1) Establishment.—There is established a commission to be known as the Bipartisan Commission on Early Childhood Education Financing (in this subsection referred to as the “Commission”).

(2) Membership.—

(A) Qualifications.—The Commission members shall be knowledgeable in federally and state-funded early care and education programs, including individuals representing State
and local governments and organizations knowledgeable in public regulatory and funding mechanisms for early care and education programs, and shall be balanced by area of expertise and balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

(B) NUMBER; APPOINTMENT.—The Commission shall be composed of 12 members appointed, within 90 days after the effective date of this Act, from among individuals who meet the requirements of subparagraph (A), as follows:

(i) 1 member shall be appointed by the Majority Leader of the Senate.

(ii) 1 member shall be appointed by the Minority Leader of the Senate.

(iii) 1 member shall be appointed by the Speaker of the House of Representatives.

(iv) 1 member shall be appointed by the Minority Leader of the House of Representatives.
(v) 1 member shall be appointed by the Chairman of the Committee on Finance of the Senate.

(vi) 1 member shall be appointed by the ranking minority member of the Committee on Finance of the Senate.

(vii) 1 member shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(viii) 1 member shall be appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives.

(ix) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor and Pensions of the Senate.

(x) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor and Pensions of the Senate.

(xi) 1 member shall be appointed by the Chairman of the Committee on Edu-
cation and Labor of the House of Representatives.

(xii) 1 member shall be appointed by
the ranking minority member of the Com-
mittee on Education and Labor of the
House of Representatives.

(C) VACANCIES.—A vacancy on the Com-
mision shall be filled in the same manner in
which the vacating member was appointed.

(3) POWERS.—In carrying out the functions of
the Commission under this subsection, the Commis-
ion—

(A) may secure directly from any Federal
agency or department any information the
Commission deems necessary to carry out the
functions, and, on the request of the Commiss-
ion, each such agency or department may co-
operate with the Commission and, to the extent
permitted by law, furnish the information to the
Commission; and

(B) may enter into contracts, subject to
the availability of appropriations, and employ
such staff experts and consultants as may be
necessary to carry out the duties of the Com-
mission, subject to section 3109 of title 5, United States Code.

(4) STAFF.—The Commission may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary for the Commission to perform the duties of the Commission. The Executive Director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5136 of title 5, United States Code. The employment and termination of an Executive Director shall be subject to confirmation by a majority of the members of the Commission.

(5) MEETINGS.—

(A) IN GENERAL.—All meetings of the Commission shall be open to the public. The Commission shall permit interested persons to appear at Commission meetings and present oral or written statements on the subject matter of the meeting.

(B) ADVANCE PUBLIC NOTICE.—The Commission shall provide timely notice, in advance, in the Federal Register, of the time, place, and subject of each Commission meeting.
(C) DOCUMENTATION.—The Commission shall keep minutes of each Commission meeting, which shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to, or prepared for, the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(D) INITIAL MEETING.—The Commission shall hold its first meeting within 30 days after all Commission members are appointed.

(6) REPORT.—

(A) IN GENERAL.—Within 18 months after the date of the enactment of this subsection, the Commission shall prepare a report of its findings and recommendations regarding modernizing Federal financing of early care and education programs to streamline and reduce duplicate funding streams.

(B) CONTENTS.—The report required by subparagraph (A) shall include the following:
(i) An inventory and accounting of the total amount of Federal funds available for early care and education programs, including—

(I) programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

(II) the child care stabilization grant program under section 2202 of the American Rescue Plan Act of 2021 (42 U.S.C. 9858 note);

(III) the child care entitlement program under section 418 of the Social Security Act (42 U.S.C. 618);

(IV) programs under the Head Start Act (42 U.S.C. 9801 et seq.);

(V) the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act (42 U.S.C. 601-619);

(VI) the Preschool Development Grants program under section 9212 of the Every Student Succeeds Act (42 U.S.C. 9831 note);
(VII) the Child Care Access Means Parents in School program under section 419N of the Higher Education Act of 1965 (20 U.S.C. 1070e); and

(VIII) and any other early care or education program identified by the Commission.

(ii) A comprehensive review and assessment of the funding structure and allocation formula used to finance each program referred to in clause (i), including a bifurcation of programs indicating whether Federal funds are provided directly to States or to other grantees, and how that affects the coordination of programs at the State and local levels and the delivery of services to families.

(iii) A description of congressional jurisdiction over, and Federal agency administration of, each such program.

(iv) An explanation of how each such program interacts with State and local public funding and financing for early care and education, including publicly-funded
pre-kindergarten, which shall include an accounting of the total amount of State and local funds available for such purposes.

(v) An identification of barriers in the governance and funding structures of programs that limit the most efficient use of local, State, and Federal resources.

(C) MATTERS REQUIRED TO BE ADDRESSED IN THE REPORT TO THE CONGRESS.—

In the report to the Congress, the Commission shall make specific recommendations, including delineation of specific statutory and regulatory changes, to address each of the following:

(i) How to modernize and more effectively use Federal funds to strengthen the delivery of child care and early education, and improve the financing framework and governance structure at the Federal level to improve access for families and accountability for taxpayer dollars.

(ii) The pros and cons of streamlining or combining Federal programs and funding streams in order to improve the overall participation of children in a mixed deliv-
ery system, while maintaining availability
of high quality services, expanding parental
choice, and enhancing access for children
from low-income communities.

(iii) Options for Federal alternative fi-
nancing framework or governance models
that better leverage the Federal investment
in child care and early education funding,
including ideas that are outside the current
framework or that re-envision existing pro-
grams.

(iv) Options for expanding the use of
public and private partnerships to help
maximize the Federal investment in early
care and education.

(D) DISTRIBUTION.—The Commission
shall make the report publicly available, and
shall submit a copy of the report to the Chair-
man and ranking minority member of each of
the Committees on Finance and on Health,
Education, Labor and Pensions of the Senate,
and the Committees on Ways and Means and
on Education and Labor of the House of Rep-
resentatives, and to the President.
(7) TERMINATION.—The Commission shall terminate 60 days after the Commission submits the report required by paragraph (6).

SEC. 206. CHILD CARE ACT OF 2021.

(a) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Administration for Children and Families, shall submit to the Congress a report that contains the following information:

(1) The list of child care regulations in each State by State.

(2) Whether each regulation is best described as related to—

(A) child safety,

(B) quality of child care,

(C) both child safety and quality of care,

or

(D) neither.

(3) An analysis of any effect of State regulations categorized as “quality of child care” regulations on the cost of child care and the supply of child care.

(4) The average cost of child care in each State.
(5) The number of child care providers per 100,000 children in each State, disaggregated by type (home-based or center-based).

(6) A ranking of States by the number of quality regulations.

(b) Definition.—For purposes of this section, the term “State” means any of the several States, the District of Columbia, or Puerto Rico.

**DIVISION C—CHILD CARE STABILIZATION FUND OPTION**

**SEC. 301. FAMILY CHILD CARE NETWORKS ACT OF 2021.**

Section 2202 of the American Rescue Plan Act of 2021 (Public Law 117-2; March 11, 2021) is amended—

(1) in subsection (e) by striking “such a subgrant” and inserting “a subgrant under subsection (d)”,

(2) by redesignating subsection (f) as subsection (j), and

(3) by inserting after subsection (e) the following:

“(f) Subgrants to Family Child Care Networks.—

“(1) In general.—Notwithstanding subsection (d)(2)(A) and with the authorization of the State under paragraph (6), the lead agency may use the
remainder of grant funds awarded pursuant to sub-
section (c) to make subgrants to be obligated before
October 1, 2024, and expended before October 1,
2025, to eligible entities to support the creation or
enhancement of family child care networks to pro-
vide core services to family child care providers for
the purpose of expanding the availability of family
child care services.

“(2) PRIORITY.—In making subgrants under
this subsection, the lead agency shall give priority to
eligible entities that will offer core services to family
childcare providers in geographical areas identified
by the State as having high needs, based on a com-
prehensive needs assessment of under-served areas
and rural areas.

“(3) DEFINITIONS.—

“(A) CORE SERVICES.—Services provided
to family child care providers that include the
following:

“(i) Consolidated business practices or
administrative support.

“(ii) Startup support for new family
child care providers to reimburse the costs,
not to exceed $10,000 per provider, to
make facility improvements or modifica-
tions to meet health and safety require-
ments, to form a small business, to sup-
port initial marketing and communications,
to purchase technology and supplies, and
to participate in professional development.

“(iii) Professional development of new
family child care providers, including sup-
port to obtain the advanced skills and cer-
tifications necessary to operate as a family
child care provider.

“(iv) Technical assistance, and health
and safety compliance assistance to sup-
port providers who seek to obtain a license;
or to support providers who seeking to pro-
vide services for which assistance is pro-
vided under the Child Care and Develop-
ment Block Grant Act of 1990 (42 U.S.C.
9857 et seq.) and the child and adult care
food program under section 17 of the
Richard B. Russell National School Lunch
Act (42 U.S.C. 1766).

“(B) ELIGIBLE ENTITIES.—Entities quali-
fied to receive a subgrant under this subsection
include community-based organizations, private
or public nonprofit organization, and workforce
development boards that will offer not fewer than 2 of the core services.

“(C) FAMILY CHILD CARE PROVIDER.— The term ‘family child care provider’ has the meaning given such term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

“(4) USE OF FUNDS.—An eligible entity that receives funds through such a subgrant shall use funds to provide at least 2 of the core services described under paragraph (3) to family child care providers and may use funds to provide additional services, including—

“(A) monitoring support and improvement activities;

“(B) peer networking and support activities;

“(C) recruitment of new family child care providers;

“(D) technical assistance to increase family child care services to support specialized populations, including non-traditional hour care, children with disabilities, dual-language learners, infants, and toddlers;
“(E) community outreach to families and employers to increase awareness of family child care opportunities; and

“(F) collaborative purchasing of supplies and technology to increase cost savings.

“(5) REIMBURSEMENTS FOR PROVIDERS.—Any family child care provider seeking reimbursement for start-up expenses allowed pursuant to paragraph (3)(A)(ii) shall provide the following documentation to the eligible entity:

“(A) Invoices of each expense for which the provider is seeking reimbursement.

“(B) An assurance such expenses are necessary, one-time expenses to operate a family child care center in accordance with local health and safety requirements.

“(C) An assurance the provider cannot pay for the work without assistance and that there is not access to other Federal or State funding to help with the costs.

“(6) AMENDED PLAN AND REPORT.—If a State elects to authorize the lead agency to provide sub-grants to eligible entities under this subsection the State shall amend the State plan submitted under
section 658E of the Child Care and Development Block Grant Act of 1990 to specify—

“(A) the goals and outcomes the State intends to achieve to improve the availability of services provided by family child care providers;

“(B) how the State will measure and evaluate family child care networks in relation to these goals;

“(C) how the State will continue to support family child care networks that are successful at achieving such goals after the expenditure of such subgrants, including support of such networks under of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857); and

“(D) after the expenditure of such subgrants by such networks, the State shall submit to the Secretary of Health and Human Services a report that measures with respect to each supported eligible entity—

“(i) the amount of the subgrant received by such entity;

“(ii) the period of time during which such subgrant was expended by such entity;
“(iii) which core services were offered by such entity during such period;

“(iv) the number of family childcare providers who received core services described in subparagraphs provided by such entity during such period;

“(v) the number of children who received services during such period from the supported family child care providers;

“(vi) the increase or decrease in the number of family child care providers in the geographical area served by such entity during such period;

“(vii) the extent to which such goals and outcomes improved the quality and availability of services provided by family child care providers served by such network.

“(g) TECHNICAL ASSISTANCE.—The Secretary of Health and Human Services, acting through the National Center on Early Childhood Quality Assurance of the Office of Child Care, shall disseminate best practices information and offer technical assistance to States, Territories, Indian Tribes, and eligible entities to help implement family child care networks and to support family
child care providers, to carry out the purposes and meet
requirements of subsection (f). Information and technical
assistance provided under this subsection—

“(1) shall include supporting family child care
networks in offering the core services described in
subsection (f)(3)(A);

“(2) may include supporting family child care
networks to offer additional services described in
subsection (f)(4); and

“(3) may include any other topic the Secretary
identifies as important or necessary to fulfil the
goals of subsection (f), including topics requested by
States, family child care networks, and family child
care providers.”.

SEC. 302. INCREASING ACCESS TO SAFE CHILD CARE FA-
CILITIES.

Section 2202 of the American Rescue Plan Act of
2021 (Public Law 117-2; March 11, 2021) is further
amended by inserting after subsection (g) (as added by
section 301 of this Act) the following:

“(h) SUBGRANTS FOR SAFE CHILD CARE FACILI-
ties.—

“(1) IN GENERAL.—Notwithstanding para-
graphs (1) and (2)(A) of subsection (d), and with
the authorization of the State under subparagraph
(6), the lead agency may use any unobligated grant funds awarded pursuant to subsection (e) (including unobligated funds otherwise reserved under subsection (d)(1)) to make subgrants to eligible entities to improve and increase the availability of safe child care facilities. Any fund used for subgrants under this subsection shall be obligated before October 1, 2024, and expended before October 1, 2025.

“(2) SELECTION OF SUBGRANTEES.—In making subgrants under this subsection, the lead agency shall select subgrantees based on demonstrated need. In making such selection, the lead agency shall—

“(A) give priority to eligible entities that—

“(i) are new child care providers described in paragraph (3)(C) who agree to serve children receiving assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857); or

“(ii) serve rural areas; and

“(B) give highest priority to eligible entities that are new child care providers described in paragraph (3)(C) who—

“(i) agree to serve children receiving assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857); or

“(ii) serve rural areas; and
opment Block Grant Act of 1990 (42 U.S.C. 9857); and

“(ii) serve rural areas.

“(3) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

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

“(B) a child care provider that—

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

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

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

“(C) a new child care provider that, on or before the date such provider begins to provide child care services, will—

“(i) be licensed, regulated, or registered in the State, territory, or Indian Tribe; and
“(ii) meet applicable State and local health and safety requirements.

“(4) USE OF FUNDS.—An eligible entity that receives funds through a subgrant authorized under this subsection shall use such funds to modify, renovate, upgrade, maintain, or repair a child care facility to—

“(A) meet applicable State and local health and safety requirements; or

“(B) increase the capacity of the provider to offer child care services, including modifications, renovations, upgrades, maintenance, or repairs necessary to—

“(i) offer child care during nontraditional hours; and

“(ii) provide services to more children or specific populations of children, including infants and toddlers, and children with disabilities.

“(5) PROHIBITED USE.—Funds received through a subgrant authorized under this subsection may not be used for the erection of a facility that does not currently exist.

“(6) AMENDED PLAN AND REPORT.—If a State elects to authorize the lead agency to provide sub-
grants to eligible entities under this subsection, the State shall amend the State plan submitted under section 658E of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859c) to specify—

“(A) the goals and outcomes the State intends to achieve to improve and increase the availability of safe child care facilities;

“(B) how the State will measure and evaluate eligible entities in relation to these goals;

“(C) after the expenditure of such subgrants by such eligible entities, the State shall submit to the Secretary of Health and Human Services a report that measures, with respect to each such eligible entity—

“(i) the amount of the subgrant received by such entity;

“(ii) a list and description of the modifications, renovations, upgrades, maintenance, and repairs carried out by such entity during such period; and

“(iii) using the metrics described in subparagraphs (A) and (B), the extent to which the State improved or increased the
availability of safe child care facilities, including—

“(I) in rural areas;

“(II) for children receiving subsidies under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857);

“(III) offering care during non-traditional hours; and

“(IV) providing services to more children or specific populations of children.”.

SEC. 303. EXPANDING EMPLOYER-SPONSORED CHILD CARE

GRANTS.

(a) PURPOSE.—The purpose of this section is to support the recovery and stability of the United States economy by providing grants to businesses to aid in opening child care programs, establishing partnerships with existing providers, or expanding existing child care services to meet the demand for child care for working parents.

(b) AMENDMENTS.—Section 2202 of the American Rescue Plan Act of 2021 (Public Law 117-2; March 11, 2021) is further amended by inserting after subsection (h) (as added by section 302 of this Act) the following:
“(i) Subgrants for Businesses to Provide Child Care Services.—

“(1) In General.—Notwithstanding paragraphs (1) and (2)(A) of subsection (d), and with the authorization of the State under paragraph (5), the lead agency may use any unobligated grant funds awarded pursuant to subsection (e) (including any such funds otherwise reserved under subsection (d)(1)) to make subgrants to eligible businesses to assist in paying for the establishment and operation or expansion of child care services for a transition period of not more than 9 months, so that working parents have a safe place for their children to receive child care. Any fund used for subgrants under this subsection shall be obligated before October 1, 2024, and expended before October 1, 2025. Subgrants made under this subsection shall be known as ‘Expanding Employer-Sponsored Child Care subgrants’.

“(2) Definitions.—In this subsection:

“(A) Eligible Business.—The term ‘eligible business’ means a business that seeks to provide or expand child care services for the children of such business’ employees or to partner with an eligible child care provider for such services.
“(B) ELIGIBLE CHILD CARE PROVIDER.—
Notwithstanding subsection (a)(2), the term ‘eligible child care provider’ means—

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

“(ii) a child care provider that—

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

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

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

“(iii) a new child care provider that, on or before the date such provider begins to provide child care services, will—

“(I) be licensed, regulated, or registered in the State, territory, or Indian Tribe; and
“(II) meet applicable State and local health and safety requirements.

“(3) REQUIREMENTS OF LEAD AGENCY.—In carrying out this subsection, a lead agency shall—

“(A) require as a condition of receiving a subgrant under this subsection that each eligible business applying for such a subgrant—

“(i)(I) will use subgrant funds for the sole purpose of establishing or expanding a child care program and providing child care services for the children of such business’ employees; or

“(II) will operate in partnership with an eligible child care provider to provide child care services for the children of such business’ employees;

“(ii) agree to follow all applicable State, local, and Tribal health and safety requirements and, if applicable, enhanced protocols for child care services related to COVID–19 or another health or safety condition;

“(iii) agree to comply with any reporting requirements the lead agency deter-
mines are necessary for the agency to comply with paragraph (6); and

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

“(B) ensure eligible businesses in urban, suburban, and rural areas can readily apply for and access funding under this section, which shall include the provision of technical assistance either directly or through resource and referral agencies;

“(C) give priority for subgrant awards according to geographically based child care service needs across the State or Tribal community, with special consideration given to rural areas; and
“(D) make available to the public, which shall include, at a minimum, posting to an internet website of the lead agency—

“(i) notice of funding availability through subgrants for eligible businesses under this section; and

“(ii) the criteria for awarding subgrants for eligible businesses.

“(4) SUBGRANTS TO BUSINESSES.—

“(A) USE OF FUNDS.—An eligible business that receives funds through a subgrant authorized under this subsection shall use such funds to carry out activities related to establishing a child care program, expanding a child care program, or contracting with an eligible child care provider to offer child care services for the employees of such business.

“(B) SUBGRANT APPLICATION.—To be eligible to receive a subgrant under this paragraph, an eligible business shall submit an application to the lead agency in such form and containing such information as the lead agency may reasonably require, including—

“(i) a plan for offering access or expanding access to child care services for
the employees of such business that includes—

“(I) information describing how the eligible business will use the subgrant funds to cover slots for the children of their employees;

“(II) if applicable, the amount of tuition or copayments employees will be expected to pay;

“(III) child care enrollment and attendance projections or, if applicable, how funds used for expansion will increase the enrollment and attendance projections; and

“(IV) a demonstration of how the eligible business will sustain its operations after the cessation of funding under this section;

“(ii) assurances that the eligible business will—

“(I) report to the lead agency data on current average enrollment and attendance;

“(II) provide any documentation to the lead agency that the agency de-
termines is necessary to comply with paragraph (6), including providing documentation of expenditures of subgrant funds; and

“(III) implement all applicable State, local, and Tribal health and safety requirements and, if applicable, enhanced protocols for child care services and related to COVID–19 or another health or safety condition; and

“(iii) a certification in good faith that the child care program will remain open for not less than 1 year after receiving a subgrant under this subsection unless such program is closed due to extraordinary circumstances described in paragraph (3)(A)(iv).

“(C) REPAYMENT OF SUBGRANT FUNDS.—An eligible business that receives a subgrant under this paragraph shall be required to repay the subgrant funds if the lead agency determines that the business fails to provide the assurances described in subparagraph (B)(ii), or to comply with such an assurance.
“(5) AMENDED PLAN AND REPORT.—If a State 
elects to authorize the lead agency to provide sub-
grants to eligible businesses under this subsection, 
the State shall amend the State plan submitted 
under section 658E of the Child Care and Develop-
ment Block Grant Act of 1990 (42 U.S.C. 9858c) 
to specify—

“(A) how the lead agency plans to award 
subgrants to eligible businesses;

“(B) how the lead agency will consider pri-
orities for subgrants related to geographically-
based child care service needs across the State 
or Tribal community and in rural areas; and

“(C) any goals regarding increase in access 
to child care, such as—

“(i) the number or type of eligible 
businesses that will receive a subgrant 
under this subsection; or

“(ii) the increase in the number of 
children served State-wide.

“(6) REPORTING REQUIREMENTS.—

“(A) LEAD AGENCY REPORT.—A lead 
agency that makes subgrants under this sub-
section shall, not later than January 1, 2026, 
submit a report on such subgrants to the Sec-
retary that includes, for the State or Tribal community involved—

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

“(I) the criteria for awarding subgrants for eligible businesses, including the methodology the lead agency used to determine and disburse funds to such businesses; and

“(II) the types of eligible businesses that received priority for the subgrants, including considerations related to geographically-based child care service needs across the State or Tribal community and in rural areas;

“(ii) the number of eligible businesses that received a subgrant under this subsection, disaggregated by age of children served, geography, region, the average and range of the amounts of the subgrants awarded, and whether such businesses were operating their own child care program or partnering with an eligible child care provider; and
“(iii) information concerning how eligible businesses receiving subgrants under this subsection used the subgrant funding received.

“(B) REPORT TO CONGRESS.—Not later than 90 days after receiving the lead agency reports required under subclause (A), the Secretary shall make publicly available and provide to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives a report summarizing the findings of the lead agency reports.”.

SEC. 304. CHILD CARE FUNDS ACCOUNTABILITY ACT.

Section 2201 of the American Rescue Plan Act of 2021 ((Public Law 117–2; March 11, 2021) is amended by adding at the end the following:

“(d) MONITORING COMPLIANCE.—

“(1) IN GENERAL.—The Secretary shall dedicate such portion of the amounts made available by subsection (b) for Federal administrative costs in carrying out this section as the Secretary determines necessary to monitor compliance with the require-
ments relating to all uses of funds made available under section 2202 for stabilization grants and under this section for the child care and development block grant program to ensure the integrity of the program, including—

“(A) compliance with the requirements under subsection (e) and under section 2202(j), and

“(B) to ensure that there is no duplication with loans under the Paycheck Protection Program received by child care providers.

“(2) REPORT TO CONGRESS.—Not later than January 1, 2026, the Secretary shall make publicly available and provide to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives a report summarizing the findings of compliance reviews under this section.”.