To award grants for the creation, recruitment, training and education, retention, and advancement of the direct care workforce and to award grants to support family caregivers.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2023

Mr. Kaine (for himself, Mr. Casey, Mr. Reed, Ms. Smith, Ms. Hassan, Mr. Whitehouse, Mrs. Gillibrand, and Mr. Wyden) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To award grants for the creation, recruitment, training and education, retention, and advancement of the direct care workforce and to award grants to support family caregivers.

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 “Supporting Our Direct
5 Care Workforce and Family Caregivers Act”.

6 SEC. 2. DEFINITIONS.

7 In this Act:
(1) APPRENTICESHIP PROGRAM.—The term “apprenticeship program” means an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.), including any requirement, standard, or rule promulgated under such Act.

(2) COMMUNITY COLLEGE.—The term “community college” means a public institution of higher education at which the highest degree that is predominantly awarded to students is an associate’s degree, including Tribal Colleges or Universities receiving grants under section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) that offer a 2-year program for completion of such degree and State public institutions of higher education that offer such a 2-year program.

(3) DIRECT CARE PROFESSIONAL.—The term “direct care professional”—

(A) means an individual who, in exchange for compensation, provides services to a person with a disability or an older individual that promotes the independence of such person or individual, including—
(i) services that enhance the independence and community inclusion for such person or individual, including traveling with such person or individual or attending and assisting such person or individual while visiting friends and family, shopping, or socializing;

(ii) services such as coaching and supporting such person or individual in communicating needs, achieving self-expression, pursuing personal goals, living independently, and participating actively in employment or voluntary roles in the community;

(iii) services such as providing assistance with activities of daily living (such as feeding, bathing, toileting, and ambulation) and with tasks such as meal preparation, shopping, light housekeeping, and laundry;

(iv) services that support such person or individual at home, work, school, or in any other community setting; or

(v) services that promote health and wellness, including scheduling and taking such person or individual to health care
appointments, communicating with health and allied health professionals administering medications, implementing health and behavioral health interventions and treatment plans, monitoring and recording health status and progress; and

(B) may include—

(i) a direct support professional supporting people with intellectual and developmental disabilities;

(ii) a home and community-based services manager or direct support professional manager;

(iii) a self-directed care worker;

(iv) a personal care service worker;

(v) a direct care worker, as defined in section 799B of the Public Health Service Act (42 U.S.C. 295p); or

(vi) any other position or job related to the home care or direct care workforce, such as positions or jobs in respite care or palliative care, as determined by the Secretary, in consultation with the Center for Medicare & Medicaid Services and the Secretary of Labor.
(4) DIRECT CARE WORKFORCE.—The term “direct care workforce” means the broad workforce of direct care professionals.

(5) FAMILY CAREGIVER.—The term “family caregiver” has the meaning given such term in section 2 of the RAISE Family Caregivers Act (42 U.S.C. 3030s note; Public Law 115–119) and includes paid and unpaid family caregivers.

(6) ELIGIBLE ENTITY.—The term “eligible entity” means an entity—

(A) that is—

(i) a State;

(ii) a labor organization, joint labor-management organization, or employer of direct care professionals;

(iii) a nonprofit entity with experience in aging, disability, or supporting the rights and interests of, training of, or educating direct care professionals or family caregivers;

(iv) an Indian Tribe, Tribal organization, or Urban Indian organization;

(v) a community college or other institution of higher education; or
(vi) a consortium of entities listed in any of clauses (i) through (v);

(B) that agrees to include, as applicable with respect to the type of grant the entity is seeking under this Act and the activities supported through such grant, older individuals, people with disabilities, direct care professionals, and family caregivers, as advisors and trainers in such activities; and

(C) that agrees to consult with the State Medicaid agency of the State (or each State) served by the grant on the grant activities, to the extent that such agency (or each such agency) is not the eligible entity.

(7) EMPLOYER.—The terms “employ” and “employer” have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 et seq.).

(8) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian Tribe” and “Tribal organization” have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” means—
(A) an institution of higher education defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or
(B) an institution of higher education defined in section 102(a)(1)(B) of such Act (20 U.S.C. 1002(a)(1)(B)).

(10) OLDER INDIVIDUAL.—The term “older individual” means an individual who is 60 years of age or older.

(11) PERSON WITH A DISABILITY.—The term “person with disability” means an individual with a disability, as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(12) PROJECT PARTICIPANT.—The term “project participant” means an individual participating in a project or activity assisted with a grant under this Act, including (as applicable for the category of the grant) a direct care professional, or an individual training to be such a professional, or a family caregiver.

(13) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services, acting through the Administrator for Community Living.
(14) **Self-directed care professional.**—The term “self-directed care professional” means a direct care professional who is employed by an individual who is an older individual, a person with a disability, or a representative of such older individual or person with a disability, and such older individual or person with a disability has the decision-making authority over certain supports and services provided by the direct care professional and takes direct responsibility to manage those supports and services.

(15) **Supportive services.**—The term “supportive services” means services that are necessary to enable an individual to participate in activities assisted with a grant under this Act, such as transportation, child care, dependent care, housing, workplace accommodations, employee benefits such as paid sick leave and child care, workplace health and safety protections, wages and overtime pay, and needs-related payments.

(16) **Urban Indian organization.**—The term “urban Indian organization” has the meaning given the term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).
(17) Workforce innovation and opportunity act terms.—The terms “career pathway”, “career planning”, “in-demand industry sector or occupation”, “individual with a barrier to employment”, “local board”, “on-the-job training”, “recognized postsecondary credential”, “region”, and “State board” have the meanings given such terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).


SEC. 3. AUTHORITY TO ESTABLISH A TECHNICAL ASSISTANCE CENTER FOR BUILDING THE DIRECT CARE WORKFORCE.

(a) Program authorized.—The Secretary shall establish a national technical assistance center (referred to in this section as the “Center”) for, in consultation with the Secretary of Labor, the Secretary of Education, the Administrator of the Centers for Medicare & Medicaid Services, and the heads of other entities as necessary—

(1) supporting direct care workforce creation, training and education, recruitment, retention, and advancement; and
(2) supporting family caregivers and activities of family caregivers as a critical part of the support team for older individuals or people with disabilities.

(b) ADVISORY COUNCIL.—The Secretary shall convene an advisory council to provide recommendations to the Center with respect to the duties of the Center under this section and may engage individuals and entities described in paragraphs (3)(B), and (12), of section 5(b) (without regard to a specific project described in such paragraphs) for service on the advisory council.

(c) ACTIVITIES.—The Center may—

(1) develop recommendations for training and education curricula for direct care professionals, which such recommendations may include recommendations for curricula for higher education, postsecondary credentials, and programs with community colleges;

(2) develop learning and dissemination strategies to—

(A) engage States and other entities in activities supported under this Act and best practices; and

(B) distribute findings from activities supported by grants under this Act;
(3) develop recommendations for training and education curricula and other strategies for supporting family caregivers;

(4) explore the national data gaps, workforce shortage areas, and data collection strategies for direct care professionals and make recommendations to the Director of the Office of Management and Budget for an occupation category in the Standard Occupational Classification system for direct support professionals as a healthcare support occupation;

(5) recommend career development and advancement opportunities for direct care professionals, which may include occupational frameworks, national standards, recruitment campaigns, pre-apprenticeship and on-the-job training opportunities, apprenticeship programs, career ladders or pathways, specializations or certifications, or other activities; and

(6) develop strategies for assisting with reporting and evaluation of grant activities under section 7.

SEC. 4. AUTHORITY TO AWARD GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Sec-
retary, in consultation with the Center for Medicare & Medicaid Services, the Secretary of Labor, and the Secretary of Education, shall award grants described in paragraph (2) to eligible entities. A grant awarded under this section may be in more than 1 category described in such paragraph.

(2) Categories of grants.—The categories of grants described in this paragraph are each of the following:

(A) Direct care professional grants.—Grants to eligible entities to create and carry out projects for the purposes of recruiting, retaining, or providing advancement opportunities for direct care professionals who are not described in subparagraph (B) or (C), including through education or training programs for such professionals or individuals seeking to become such professionals.

(B) Direct care professional managers grants.—Grants to eligible entities to create and carry out projects for the purposes of recruiting, retaining, or providing advancement opportunities for direct care professionals who are managers or supervisory staff that have coaching, training, managerial, super-
visory, or other oversight responsibilities, in-
cluding through education or training programs
for such professionals or individuals seeking to
become such professionals.

(C) **Self-directed Care Professionals**

GRANTS.—Grants to eligible entities to create
and carry out projects for the purposes of re-
cruiting, retaining, or providing advancement
opportunities for self-directed care profes-
sionals, including through education or training
programs for such professionals or individuals
seeking to become such professionals.

(D) **Family Caregiver Grants.**—Grants
to eligible entities to create and carry out
projects for providing support to paid or unpaid
family caregivers through educational, training,
or other resources, including resources for care-
giver self-care or educational or training re-
sources for individuals newly in a caregiving
role or seeking additional support in the role of
a family caregiver.

(3) **Projects for Advancement Opportunities.**—Not less than 30 percent of projects assisted
with grants under this Act shall be projects to pro-
vide career pathways that offer opportunities for
professional development and advancement opportunities to direct care professionals.

(b) Treatment of Continuation Activities.—

An eligible entity that carries out activities described in subsection (a)(2) prior to receipt of a grant under this Act may use such grant to continue carrying out such activities, and, in using such grant to continue such activities, shall be treated as an eligible entity carrying out a project through a grant under this Act.

SEC. 5. PROJECT PLANS.

(a) In General.—An eligible entity seeking a grant under this Act shall submit to the Secretary a project plan for each project to be developed and carried out (including for activities to be continued as described in section 4(b)) with the grant at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents.—A project plan submitted by an eligible entity under subsection (a) shall include a description of information determined relevant by the Secretary for purposes of the category of the grant and the activities to be carried out through the grant. Such information may include (as applicable) the following:

(1) Demographic information regarding the population in the State or relevant geographic area, including a description of the populations likely to
need long-term care services, such as people with disabilities and older individuals.

(2) Projections of unmet need for services provided by direct care professionals based on enrollment waiting lists under home and community-based waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) or section 1915(c) of such Act (42 U.S.C. 1396n(c)) and other relevant data to the extent practicable and feasible, such as direct care workforce vacancy rates, crude separation rates, and the number of direct care professionals, including such professionals who are managers or supervisors, in the region.

(3) An advisory committee to advise the eligible entity on activities to be carried out through the grant. Such advisory committee—

(A) may be comprised of entities listed in paragraph (12); and

(B) shall include—

(i) older individuals or persons with a disability;

(ii) organizations representing the rights and interests of people receiving services by the direct care professionals or family caregivers targeted by the project;
(iii) individuals who are direct care professionals or family caregivers targeted by the project and organizations representing the rights and interests of direct care professionals or family caregivers;

(iv) as applicable, employers of individuals described in clause (iii) and labor organizations representing such individuals;

(v) representatives of the State Medicaid agency, the State agency defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002), the State developmental disabilities office, and the State mental health agency, in the State (or each State) to be served by the project; and

(vi) representatives reflecting diverse racial, cultural, ethnic, geographic, socioeconomic, and gender identity and sexual orientation perspectives.

(4) Current or projected job openings for, or relevant labor market information related to, the direct care professionals targeted by the project in the State or region to be served by the project, and the
geographic scope of the workforce to be served by the project.

(5) Specific efforts and strategies that the project will undertake to reduce barriers to recruitment, retention, or advancement of the direct care professionals targeted by the project, including an assurance that such efforts will include—

(A) an assessment of the wages or other compensation or benefits necessary to recruit and retain the direct care professionals targeted by the project;

(B) a description of the project’s projected compensation or benefits for the direct care professionals targeted by the project at the State or local level, including a comparison of such projected compensation or benefits to regional and national compensation or benefits and a description of how wages and benefits received by project participants will be impacted by the participation in and completion of the project; and

(C) a description of the projected impact of workplace safety issues on the recruitment and retention of direct care professionals targeted
by the project, including the availability of personal protective equipment.

(6) In the case of a project offering an education or training program for direct care professionals, a description of such program (including how the core competencies identified by the Centers for Medicare & Medicaid Services will be incorporated, curricula, models, and standards used under the program, and any associated recognized postsecondary credentials for which the program provides preparation, as applicable), which shall include an assurance that such program will provide to each project participant in such program—

(A) relevant training regarding the rights of recipients of home and community based services, including their rights to—

(i) receive services in integrated settings that provide access to the broader community;

(ii) exercise self-determination;

(iii) be free from all forms of abuse, neglect, or exploitation; and

(iv) person-centered planning and practices, including participation in planning activities;
(B) relevant training to ensure that each project participant has the necessary skills to recognize abuse and understand their obligations with regard to reporting and responding to abuse appropriately in accordance with relevant Federal and State law;

(C) relevant training regarding the provision of culturally competent and disability competent supports to recipients of services provided by the direct care professionals targeted by the project;

(D) an apprenticeship program, work-based learning, or on-the-job training opportunities;

(E) supervision or mentoring; and

(F) for any on-the-job training portion of the program, a progressively increasing, clearly defined schedule of wages to be paid to each such participant that—

(i) is consistent with skill gains or attainment of a recognized postsecondary credential received as a result of participation in or completion of such program; and

(ii) ensures the entry wage is not less than the greater of—
(I) the minimum wage required under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

(II) the applicable wage required by other applicable Federal or State law, or a collective bargaining agreement.

(7) Any other innovative models or processes the eligible entity will implement to support the retention and career advancement of the direct care professionals targeted by the project.

(8) The supportive services and benefits to be provided to the project participants in order to support the employment, retention, or career advancement of the direct care professionals targeted by the project.

(9) How the eligible entity will make use of career planning to support the identification of advancement opportunities and career pathways for the direct care professionals in the State or region to be served by the project.

(10) How the eligible entity will collect and submit to the Secretary workforce data and outcomes of the project.
(11) How the project—

(A) will—

(i) provide adequate and safe equipment and facilities for training and supervision, including a safe work environment free from discrimination, which may include the provision of personal protective equipment and other necessary equipment to prevent the spread of infectious disease among the direct care professionals targeted by the project and recipients of services provided by such professionals;

(ii) incorporate remote training and education opportunities or technology-supported opportunities;

(iii) for training and education curricula, incorporate evidenced-supported practices for adult learners and universal design for learning and ensure recipients of services provided by the direct care professionals or family caregivers targeted by the project participate in the development and implementation of such training and education curricula;
(iv) use outreach, recruitment, and retention strategies designed to reach and retain a diverse workforce;

(v) incorporate methods to monitor satisfaction with project activities for project participants and individuals receiving services from such participants;

(vi) incorporate evidence-supported practices for family caregiver engagement; and

(vii) incorporate core competencies identified by the Centers for Medicare & Medicaid Services; and

(B) may incorporate continuing education programs and specialty training, with a specific focus on—

(i) trauma-informed care;

(ii) behavioral health, including co-occurring behavioral health conditions and intellectual or developmental disabilities;

(iii) Alzheimer’s and dementia care;

(iv) chronic disease management; and

(v) the use of supportive or assistive technology.
(12) How the eligible entity will consult on the implementation of the project, or coordinate the project with, each of the following entities, to the extent that each such entity is not the eligible entity:

(A) The State Medicaid agency, State agency defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002), and the State developmental disabilities office for the State (or each State) to be served by the project.

(B) The local board and State board for each region, or State, to be served by the project.

(C) In the case of a project that carries out an education or training program, a non-profit organization with demonstrated experience in the development or delivery of curricula or coursework.

(D) A nonprofit organization, including a labor organization, that fosters the professional development and collective engagement of the direct care professionals targeted by the project.

(E) Area agencies on aging, as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).
(F) Centers for independent living, as described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.).

(G) The State Council on Developmental Disabilities (as such term is used in subtitle B of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15021 et seq.)) for the State (or each State) to be served by the project.

(H) Aging and Disability Resource Centers (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)).

(I) A nonprofit State provider association that represents providers who employ the direct care professionals targeted by the project, where such associations exist.

(J) An entity that employs the direct care professionals targeted by the project.

(L) The State protection and advocacy system described in section 143 of such Act (42 U.S.C. 15043) of the State (or each State) to be served by the project.

(M) Direct care professionals or direct care workforce organizations representing underserved communities, including communities of color.

(13) How the eligible entity will consult throughout the project with—

(A) individuals employed or working as the direct care professionals or family caregivers targeted by the project;

(B) representatives of such professionals or caregivers;

(C) individuals assisted by such professionals or caregivers;

(D) the families of such professionals or caregivers; and

(E) individuals receiving education or training to become such professionals or caregivers.

(14) Outreach efforts to individuals for participation in such project, including targeted outreach efforts to—
(A) individuals who are recipients of assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or individuals who are eligible for such assistance; and

(B) individuals with barriers to employment.

(c) CONSIDERATIONS.—In selecting eligible entities to receive a grant under this Act, the Secretary shall ensure—

(1) equitable geographic and demographic diversity, including by selecting recipients serving rural areas and selecting recipients serving urban areas; and

(2) that selected eligible entities will serve areas where the occupation of direct care professional, or a related occupation, is an in-demand industry sector or occupation.

SEC. 6. USES OF FUNDS; SUPPLEMENT, NOT SUPPLANT.

(a) USES OF FUNDS.—

(1) IN GENERAL.—Each eligible entity receiving a grant under this Act shall use the funds of such grant to carry out at least 1 project described in section 4(a)(2).
(2) ADMINISTRATIVE COSTS.—Each eligible entity receiving a grant under this Act shall not use more than 5 percent of the funds of such grant for costs associated with the administration of activities under this Act.

(3) DIRECT SUPPORT.—Each eligible entity receiving a grant under this Act (except for a grant described in section 4(a)(2)(D)) shall use not less than 5 percent of the funds of such grant to provide direct financial benefits or supportive services to direct care professionals to support the financial needs of such participants during the duration of the project activities.

(b) SUPPLEMENT, NOT SUPPLANT.—An eligible entity receiving a grant under this Act shall use such grant only to supplement, and not supplant, the amount of funds that, in the absence of such grant, would be available to address the recruitment, training and education, retention, and advancement of direct care professionals or provide support for family caregivers, in the State or region served by the eligible entity.

(c) PROHIBITION.—No amounts made available under this Act may be used for any activity that is subject to the reporting requirements set forth in section 203(a)
of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 433(a)).

SEC. 7. EVALUATIONS AND REPORTS; TECHNICAL ASSISTANCE.

(a) Reporting Requirements by Grant Recipients.—

(1) In General.—An eligible entity receiving a grant under this Act shall cooperate with the Secretary and annually provide a report to the Secretary that includes any relevant data requested by the Secretary in a manner specified by the Secretary.

(2) Contents.—The data requested by the Secretary for an annual report may include any of the following (as determined relevant by the Secretary with respect to the category of the grant and each project supported through the grant):

(A) The number of individuals and the demographics of these individuals served by each project supported by the grant, including—

(i) the number of individuals recruited through each such project to be employed as a direct care professional;
(ii) the number of individuals who through each such project attained employment as a direct care professional; and

(iii) the number of individuals who enrolled in each such project and withdrew or were terminated from each such project without completing training or attaining employment as a direct care professional.

(B) The number of family caregivers participating in an education or training program through each project supported by the grant.

(C) The number of project participants who through each such project participated in and completed—

(i) work-based learning;

(ii) on-the-job training;

(iii) an apprenticeship program; or

(iv) a professional development or mentoring program.

(D)(i) Other services, benefits, or supports (other than the services, benefits, or supports described in subparagraph (C)) provided through each such project to assist in the recruitment, retention, or advancement of direct care professionals (including through education
or training for such professionals or individuals seeking to become such professionals;)

(ii) the number of individuals who accessed such services, benefits, or supports; and

(iii) the impact of such services, benefits, or supports.

(E) The crude separation and vacancy rates of direct care professionals, and such rates for those professionals who are managers or supervisors, in the geographic region for a number of years before the grant was awarded, as determined by the Secretary, and annually thereafter for the duration of the grant period.

(F) How each project supported by the grant assessed satisfaction with respect to—

(i) project participants assisted by the project;

(ii) individuals receiving services delivered by project participants, including—

(I) any impact on the health or health outcomes of such individuals; and

(II) any impact on the ability of individuals to transition to or remain in the community in an environment
that meets the criteria established in
the section 441.301(e)(4) of title 42,
Code of Federal Regulations (or suc-
cessor regulations); and

(iii) employers of such project partici-
pants.

(G) The performance of the eligible entity
with respect to the indicators of performance on
unsubsidized employment, median earnings, cre-
dential attainment, measurable skill gains, and
employer satisfaction.

(H) Any other information with respect to
outcomes of the project as determined by the
Secretary.

(b) Annual Report to Congress by Sec-
retary.—Not later than 2 years after the date of enact-
ment of this Act, and each year thereafter until all
projects supported through a grant under this Act are
completed, the Secretary shall prepare and submit to Con-
gress an annual report on the progress of each project
supported through a grant under this Act and the activi-
ties of the technical assistance center established under
section 3.

(c) GAO Report.—Not later than 1 year after the
date on which all projects supported through a grant
under this Act are completed, the Comptroller General of
the United States shall conduct a study and submit to
Congress a report including—

(1) an assessment of how the technical assist-
ance center established under section 3 and the
projects supported through a grant under this Act
assisted in the creation, recruitment, training and
education, retention, and advancement of the direct
care workforce or in providing support for family
caregivers; and

(2) recommendations for such legislative or ad-
ministrative actions needed for improving the assist-
ance described in paragraph (1), as the Comptroller
General determines appropriate.

(d) INDEPENDENT EVALUATIONS.—Not later than 6
months after the date of enactment of this Act, the Sec-
retary shall enter into a contract with an independent enti-
ty to provide independent evaluations of activities sup-
ported by grants under this Act and activities of the tech-
nical assistance center established under section 3.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appro-
priated—

(1) for the establishment and activities of the
technical assistance center under section 3,
$2,000,000 for each of fiscal years 2024 through 2028; and

(2) for grants under section 4, $1,000,000,000 for fiscal year 2024.

(b) AVAILABILITY.—Amounts made available under this Act shall remain available until September 30, 2033.