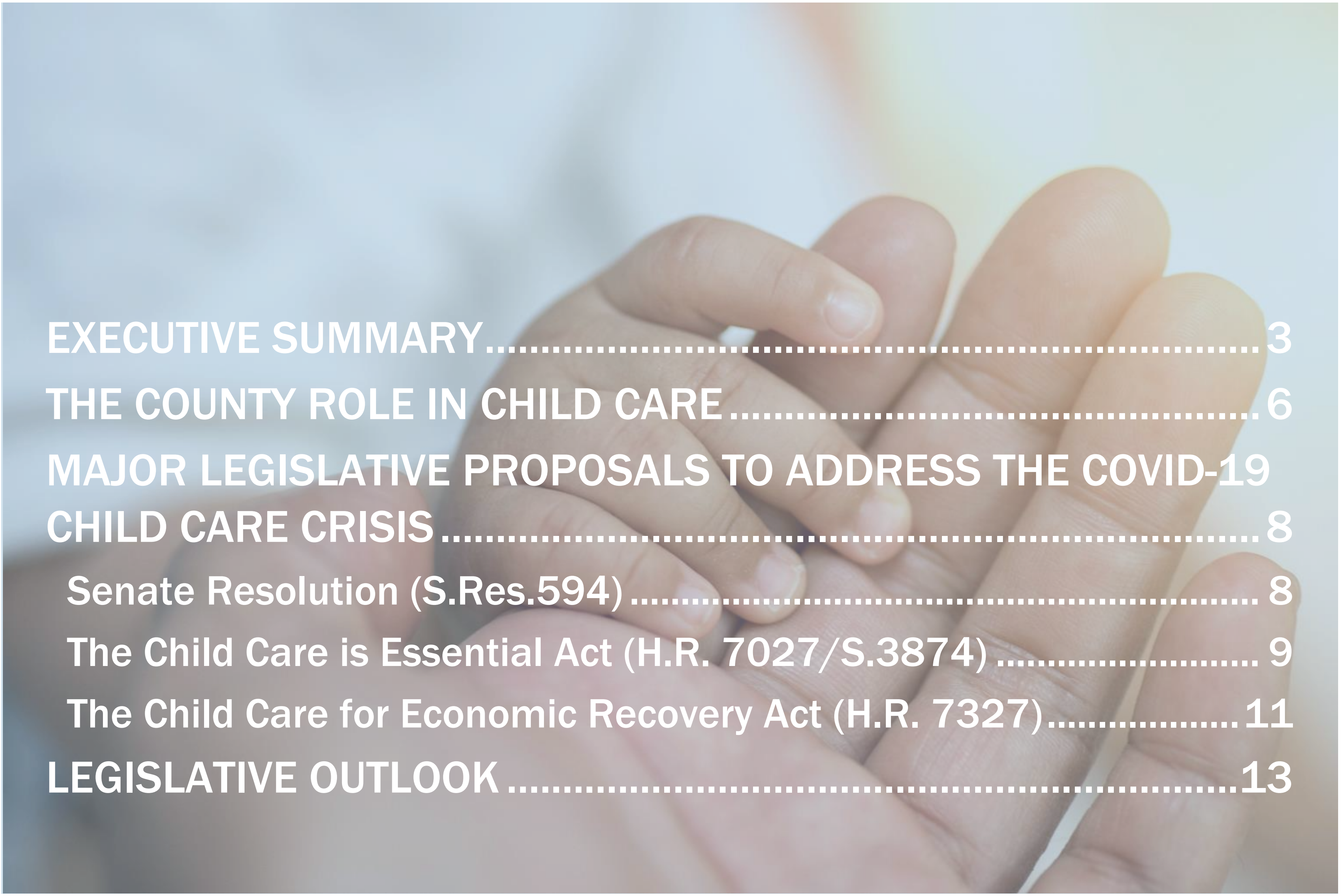
NACo LEGISLATIVE BRIEF

PROPOSALS TO ADDRESS THE COVID-19 CHILD CARE CRISIS

July 2020

NATIONAL ASSOCIATION of COUNTIES NACo®



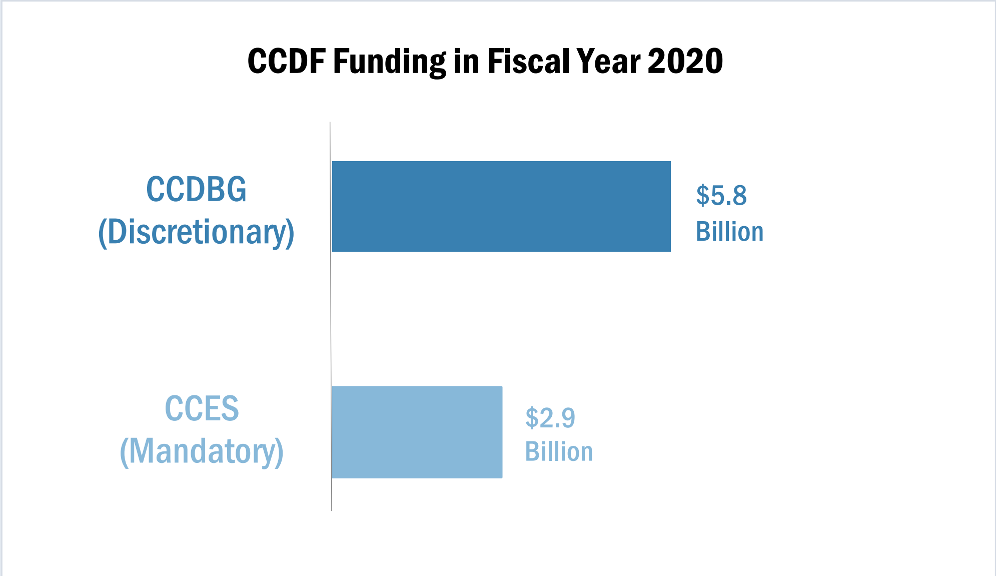
EXECUTIVE SUMMARY

Although federal child care programs are primarily regulated at the state level, counties can play a significant role in licensing child care providers, offering child care assistance to low income residents, referring families to child care resources and providing local funding to help build the supply of child care. County governments are responsible for administering the Child Care and Development Fund (CCDF) in at least eight states, according to the most recent available state plans: **Colorado, Minnesota, North Carolina, North Dakota, New York, Ohio, Virginia and Wisconsin.**

OVERVIEW: THE CHILD CARE AND DEVELOPMENT FUND (CCDF)

Current legislative proposals to strengthen the child care industry involve CCDF, the federal government's fund source for child care subsidies to help eligible low-income families access child care and improve the quality of child care for all children.

CCDF is comprised of both a mandatory component (not subject to the annual appropriations process), the **Child Care Entitlement to States (CCES)**, and a discretionary portion, the **Child Care and Development Block Grant (CCDBG)**, which Congress must fund every fiscal year.



The COVID-19 crisis has created new challenges and opportunities for county leaders to invest in child care. Providing emergency child care for essential workers has proved a critical component of supporting the many county employees serving on the front lines of the pandemic response. Meanwhile, local economic recovery from the COVID-19 crisis hinges on the ability of many county residents to access child care so that they can return to work.

With 60 percent of the nation's licensed providers closed due to the pandemic and one-third of the nation's child care workers laid off or furloughed due to COVID-19, the child care sector is one of the industries hit hardest by the pandemic. To reopen safely, many child care providers face steep costs associated with heightened sanitation measures, Personal Protective Equipment (PPE) and classroom size reduction.

Under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; PL 116-136), Congress provided $3.5 billion in supplemental funding for CCDBG, which the Department of Health and Human Services (HHS) released to states, tribes and territories on April 29. CCDF Lead Agencies were instructed to use the funds to prevent, prepare for and respond to COVID-19, giving them flexibility to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus, without regard to the income eligibility requirements.

THE COVID-19 CHILD CARE CRISIS

- **1/3** of child care workers nationwide have been laid off or furloughed
- **60 percent** of the nation's licensed child care programs have closed due to the pandemic
- Experts project the loss of **4.5 million** child care slots
- The industry faces an estimated shortfall of **$9.6 billion** a month

Sources: National Association for the Education of Young Children, Bipartisan Policy Center, Center for American Progress, National Women's Law Center & Center for Law and Social Policy

In the coming months, bipartisan lawmakers have acknowledged the steep challenges that continue to face the child care sector called for additional relief to support a quick economic recovery from the pandemic. On May 12, Senators Joni Ernst (R-Iowa) and Lisa Murkowski (R-Alaska), Kyrsten Sinema (D-Ariz.) and Jeanne Shaheen (D-N.H.) led a group of 19 other bipartisan senators in a Dear Colleague addressed to senate leadership urging additional relief for child care in any forthcoming aid package. Members of Congress from both sides of the aisle have also introduced legislation utilizing a wide range of policy levers to invest billions of dollars in the struggling industry.

On May 22, Senators Joni Ernst (R-Iowa) and Kelly Loeffler (R-Ga.) introduced a Resolution (S.Res.594) calling for **$25 billion** in additional support for child care providers and workers through the Child Care and Development Block Grant (CCDBG). These funds would to support child care providers in paying costs associated with closures and/or decreased attendance or enrollment related to coronavirus and to ensure providers are able to remain open or reopen as appropriate.

On May 27, Representatives Rosa DeLauro (D-Conn.) and Bobby Scott (D-Va.) joined Senator Patty Murray (D-Wash) to release the ***Child Care is Essential Act*** (H.R.7027/S.3874) to create a **$50 billion** Child Care Stabilization Fund within the CCDBG program. grants would be available to licensed, regulated, or registered child care providers that are currently open or temporarily closed due to COVID-19, regardless of whether they have received funding through CCDBG in the past.

On June 25, Representatives Richard Neal (D-Mass.), Nita Lowey (D-N.Y.), Danny Davis (D-Ill.), Katherine Clark (D-Mass.), Rosa DeLauro (D-Conn.) and Linda Sánchez (D-Ca.) introduced the ***Child Care for Economic Recovery Act*** (H.R. 7327). Combining provisions under the jurisdiction of the House Committee on Ways and Means, House Committee on Education and Labor and House Appropriations Committee, the legislation would expand greater tax benefits for child care expenses, provide support for providers and provide **$50 billion** over 5 years in mandatory funding for federal child care programs.

Congress and the administration last took legislative action to provide COVID-19 relief on April 24, 2020. Since then, efforts to produce a fifth COVID-19 response bill have moved along party lines, with Democrats in the U.S. House of Representatives passing the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES; H.R. 6800) and Senate Majority Leader Mitch McConnell (R-Ky) waiting to move on a bill until after the July 4 recess.

County priorities for child care in any upcoming relief package include targeted investments in the child care sector to ensure our residents can return to work while placing their children in safe and developmentally appropriate settings. Counties also urge Congress to provide direct, flexible aid to county governments of all sizes that can apply to lost revenue due to the COVID-19 crisis, which could provide county leaders with additional resources to meet the child care needs of our communities.

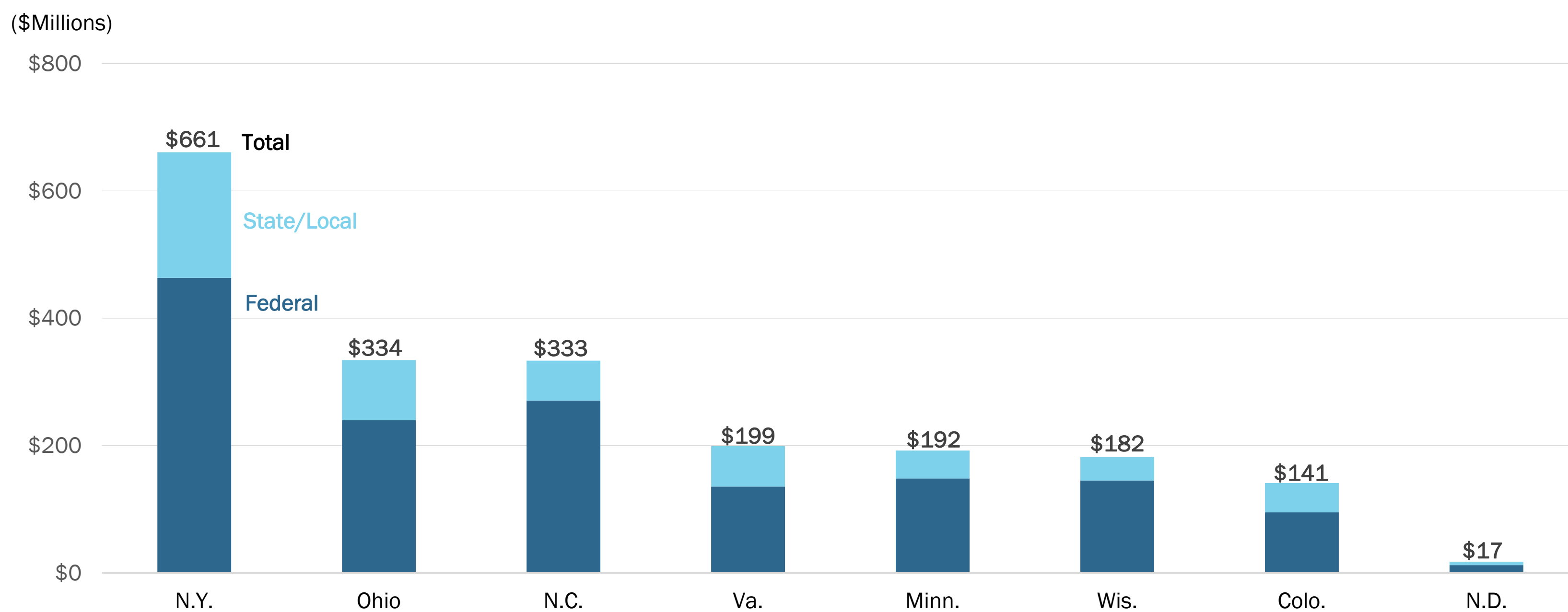
This legislative brief provides an overview of the county role in supporting access to safe, high-quality child care for our residents, summarizes legislative proposals to shore up the child care industry, and analyzes the implications of those proposals for county governments.

THE COUNTY ROLE IN CHILD CARE

Counties recognize the importance of high-quality child care as a foundation to healthy development in young children that boosts their long term educational and employment outcomes. Additionally, investments in quality child care are a critical aspect of workforce development, as lack of access to affordable, quality child care represents a common barrier for low-income parents seeking to access employment. Programs to invest in training and retention for the child care workforce similarly offer pathways to more sustainable employment in that profession.

County governments are responsible for administering the Child Care and Development Fund (CCDF) in at least eight states, according to the most recent available state plans: **Colorado, Minnesota, North Carolina, North Dakota, New York, Ohio,**

FY 2018 CCDF EXPENDITURES IN COUNTY ADMINISTERED STATES



Source: U.S. Department of Health and Human Services, CCDF Expenditures for FY 2018, [Table 4a – All Expenditures by State]

Virginia and Wisconsin. In FY 2018, these eight states together invested more than $2 billion in federal, state and local funds in the CCDF program, accounting for more than a fifth of the national total.

The scope of the county role in administering CCDF varies, but means that county governments in these states may set policy related to eligibility, sliding fee scales and payment rates, as well as perform eligibility determinations, issue provider payments, connect parents with child care and more. Additionally, counties administering CCDF may contribute county general revenue funds to help meet the required non-federal match for the Child Care Entitlement to States (CCES), the mandatory portion of the program.

The county role in supporting child care extends far beyond the administration of CCDF, however. County governments administering federal human services programs such as the Temporary Assistance for Needy Families program (TANF) and Social Services Block Grant (SSBG) may also draw on those funding streams to invest in the supply and quality of child care for low-income families receiving public assistance. And regardless of the county role in administering federal programs, many counties contribute local dollars to efforts with cross-sector partners to build the supply of high quality child care, whether by creating an inventories of local supply and demand and developing plans to bridge gaps, creating centralized intake and referral systems for families with children, helping providers meet quality standards, offering child care as a wrap-around support for participants in employment and training programs and more.

Given the important county role in supporting high-quality child care and the critical importance of child care to successful COVID-19 response and reopening, county governments are encouraging robust federal resources to help stabilize the industry and meet the unique needs of our communities.

COUNTY PRIORITIES FOR CHILD CARE DURING COVID-19

- In a March 2020 letter to Congressional Leadership, the National Association of Counties (NACo) encouraged Congress to provide emergency funding for CCDBG, encouraging the distribution of funds based on need, rather than statutory formulas, to ensure maximum effectiveness at responding to the crisis.

- In a letter submitted for the record during a June 22 House Ways and Means Committee hearing on the “Child Care Crisis and The Coronavirus Pandemic,” NACo urged Congress to provide targeted assistance to child care programs and to provide direct aid to states and counties to help county governments supplant lost revenue, a key source of local funding for programs that boost child care quality and supply.

- NACo has endorsed legislation that would invest in child care infrastructure and workforce needs exacerbated by COVID-19

MAJOR LEGISLATIVE PROPOSALS TO ADDRESS THE COVID-19 CHILD CARE CRISIS

Senate Resolution (S.Res.594)

- Sponsors: Sens. Joni Ernst (R-Iowa) and Kelly Loeffler (R-Ga.)
- Committees of Jurisdiction: Senate Health, Education, Labor and Pensions (HELP) Committee
- Major Focus: Increased CCDBG funding

On May 22, Senators Joni Ernst (R-Iowa) and Kelly Loeffler (R-Ga.) introduced a Senate Resolution (S.Res.594) calling for **$25 billion** in additional support for child care providers and workers through the Child Care and Development Block Grant (CCDBG). These funds would support child care providers in paying costs associated with closures and/or decreased attendance or enrollment related to coronavirus and to ensure providers can remain open or reopen as appropriate.

The resolution notes that an estimated additional $25 billion in CCDBG funding is needed at a minimum for States to ensure that child care providers can either remain open or reopen facilities when appropriate. If adopted, it would be resolved that the Senate calls for "significant funds" to be made available through CCDBG for maintenance grants for existing eligible child care providers participating in the program.

The resolution would not carry statutory weight or authorize funding, but signals support for increased CCDBG funding in a future COVID-19 relief package.

Counties support increased federal funding for CCDBG to meet the needs of eligible families.

The Child Care is Essential Act (H.R. 7027/S.3874)

- Sponsors: Reps. Rosa DeLauro (D-Conn.) and Bobby Scott (D-Va), Senator Patty Murray (D-Wash)
- Committees of Jurisdiction: House Appropriations Committee, House Budget Committee, Senate Health, Education, Labor and Pensions Committee
- Major Focus: Child Care Stabilization Fund

On May 27, Representatives Rosa DeLauro (D-Conn.) and Bobby Scott (D-Va.) joined Senator Patty Murray (D-Wash) to release the ***Child Care is Essential Act*** (H.R.7027/S.3874) to create a **$50 billion** Child Care Stabilization Fund with an emergency appropriation to the CCDBG program, to be available through September 30, 2021.

The Stabilization Fund would be administered through the existing CCDF lead agency of each state, tribe or territory. However, grants would be available to licensed, regulated, or registered child care providers that meet state health and safety standards and are currently open or temporarily closed due to COVID-19 **regardless of whether they had previously received funding through CCDBG.**

The legislation instructs CCDF lead agencies to make grant awards based on providers' pre-COVID-19 operating costs with adjustments to reflect the additional cost of providing care due to the pandemic. Additionally, CCDF lead agencies are directed to equally distribute the grants between eligible child care centers, home based child care providers, and family child care homes.

ELIGIBLE USES FOR PROPOSED CHILD CARE STABILIZATION GRANTS

- Personnel costs, including premium pay, employee benefits and employee salaries.
- Sanitization and cleaning, personal protective equipment, and other necessary equipment.
- Training and professional development related to health and safety practices.
- Fixed costs, including mortgage obligations, rent, utilities and insurance.
- Mental health supports for children and employees.
- Modifications to child care services due to COVID-19
- Other goods and services necessary to maintain or resume operation of the child care program or to maintain the viability of the child care provider.

To be eligible for stabilization funds, child care providers must provide good-faith evidence that COVID-19 has affected ongoing operations continue to employ and pay their staff and to provide families with relief from copayments and tuition as a condition of receiving grant funds.

Open providers would be required to meet health and safety guidance from the Center for Disease Control and Prevention and state and local authorities, and closed providers would have to provide an assurance that they will reopen their program when they are able to implement such guidance.

Under the bill, lead agencies are additionally tasked with reserving no more than 10 percent of their allocation for the administration of subgrants, including the development of data systems. Agencies may also use these reserved funds to provide technical assistance, application support and widespread outreach to eligible child care providers, either directly or through resource and referral agencies or staffed family child care networks.

Additionally, agencies are able to use reserved funds to carry out activities to improve the supply and qualify of child care during and after the COVID–19 public health emergency, such as conducting community needs assessments, carrying out child care cost modeling, making improvements to child care facilities, increasing access to licensure or participation in the state's tiered quality rating system and carrying out other eligible activities.

Counties believe high-quality child care services that meet the developmental needs of children are needed and support increased federal funding for CCDBG to meet the needs of eligible families. Counties support the provision of enough federal child care funds to, at a minimum, ensure that quality services are available to families with incomes of up to 225 percent of the federal poverty level. Counties support making federally funded child care available to working parents on a fee scale based on their ability to pay and believe that financial support should be made available for infant care, child care for children with special needs, children in foster care and child care during non-traditional hours when needed.

The Child Care for Economic Recovery Act (H.R. 7327)

- Sponsors: Reps. Richard Neal (D-Mass.), Nita Lowey (D-N.Y.), Danny Davis (D-Ill.), Katherine Clark (D-Mass.), Rosa DeLauro (D-Conn.) and Linda Sánchez (D-Ca.)
- Committees of Jurisdiction: House Ways and Means Committee, House Appropriations Committee, House Budget Committee
- Major Focus: Tax credits, increased funding for CCES, infrastructure grants

On June 25, Representatives Richard Neal (D-Mass.), Nita Lowey (D-N.Y.), Danny Davis (D-Ill.), Katherine Clark (D-Mass.), Rosa DeLauro (D-Conn.) and Linda Sánchez (D-Ca.) introduced the ***Child Care for Economic Recovery Act*** (H.R. 7327). Combining provisions under the jurisdiction of the House Committee on Ways and Means, House Committee on Education and Labor and House Appropriations Committee, the legislation—which represents the largest COVID-19 child care package introduced yet—would focus on a wide range of policy levers to boost the long-term supply of affordable and safe child care:

Tax Credits and Benefits: The bill would expand the Child and Dependent Care Tax Credit (CDCTC) — which lowers an individual's federal income tax liability based on child and dependent care expenses he or she incurred in order to work or look for work — by making it fully refundable. This shift would make the credit available to low income families who currently do not have a high enough tax liability to take advantage of it. Additionally, the bill would increase the size of the CDCTC by doubling the amount of eligible expenses, boosting the maximum credit rate to 50 percent and indexing the credit to inflation.

Under the bill, child care providers subject to closure due to COVID-19 would also be eligible for a 50 percent refundable tax credit for fixed costs such as rent, mortgage and utilities. The legislation also creates a new 30 percent refundable payroll tax credit for certain employee dependent care expenses paid by employers (up to $2,500 per employee per quarter), which county governments would be eligible to claim. Additionally, the bill would roughly double the amount that can be contributed to a dependent care Flexible Savings Account (FSA) and allow employers to permit employees with dependent care FSAs to carry over unused benefits or contributions from 2020 to 2021.

The bill also expands the employee retention tax credit (ERTC) to incentivize employers of household domestic workers to continue to pay those employees. Employers can receive the credit on wages they pay domestic workers who cannot work due to a governmental order.

Child Care Entitlement to States: Complimenting the Child Care Stabilization Fund created through the discretionary portion of CCDBG in the *Child Care is Essential Act,* the *Child Care for Economic Recovery Act* would increase the guaranteed funding level for CCES from $2.9 billion **to $10 billion per year**. The increase would begin in 2020 and end in 2024 and waive state matching requirements for that same period.

Family Care for Essential Workers: The bill would authorize and appropriate an additional $850 million through the Social Services Block Grant to be available through September 30, 2021 for the sole purpose of providing child and dependent care for workers deemed essential during the COVID-19 pandemic. States would be directed to work with CCDF Lead Agencies to use the funds to pay child care and adult care providers, establish emergency child and adult care or reimburse workers for care they obtained on their own.

Infrastructure Grants: The bill also authorizes **$10 billion** over the 2020-2024 period to finance grants to improve child care infrastructure, including constructing, renovating, and improving facilities to address longstanding issues and to respond to the COVID-19 pandemic. Under the legislation, the secretary of HHS would perform both immediate and long-term in-depth needs assessments to guide priorities for the facilities grants.

Counties support increased incentives for employers to provide child care for their employees on site or as a benefit and support making the Dependent and Child Care Tax Credit refundable. Counties support careful monitoring of state and local licensing laws to ensure adequacy of child care facilities and caretakers.

LEGISLATIVE OUTLOOK

Between March and May, Congress and the administration quickly enacted four bipartisan emergency packages directing billions of dollars to Coronavirus response and relief efforts, with only one directly affecting child care.

LEGISLATION	DATE SIGNED INTO LAW	RESOURCES FOR CHILD CARE
Coronavirus Preparedness and Response Supplemental Appropriations Act (PL 116-123)	March 6, 2020	N/A
Families First Coronavirus Response Act (FFCRA; PL 116-127)	March 18, 2020	N/A
Coronavirus Aid, Relief and Economic Security Act (CARES; PL 116-136)	March 27, 2020	$3.5 billion in emergency funding for the Child Care Development Block Grant
Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139)	April 24, 2020	N/A

Work on a fifth package has moved slowly and along party lines. On May 15, the U.S. House of Representatives passed H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, along mostly party lines. The bill, which was introduced by House Democratic leadership, spans 1,800 pages and costs roughly $3 trillion. The HEROES Act would appropriate **$7 billion for CCDBG** to provide child care assistance to essential workers and support publicly funded child care providers in deploying various emergency flexibilities in response to the COVID-19 outbreak, to be available through September 30, 2021. It would also make the CDCTC refundable and increase the size of the credit for the year 2020.

The U.S. Senate declined to take up the HEROES Act for a vote, citing its large price tag, lack of bipartisan input and lack of support from the president. Senate Majority Leader Mitch McConnell has indicated the chamber will not being work on an additional relief package until senators return from their July 4 recess.

As Congress negotiates upcoming COVID-19 relief packages, NACo will continue to advocate for direct, flexible funding for county governments as well as increased support for CCDBG and the child care sector.

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