



# NCSL REPORT

## Early Care & Education

### CHILD CARE AND EARLY EDUCATION 2008 LEGISLATIVE ACTION

April 2009

**D**uring state legislative sessions in 2008, 33 legislatures adopted new child care and early education legislation. Laws addressed governance and new task forces, preschool, child development and child care. Twelve states established new offices or councils or conducted studies to address early care and education issues. Nineteen states and the District of Columbia enacted legislation concerning prekindergarten programs, including expansion, quality measures, program components, and new legislative activity in states that currently do not have state-funded prekindergarten programs. Twenty states passed laws addressing child care financing and funding, quality rating systems and child development.

This summary highlights legislative enactments on child care and early education in 2008. Additional actions that were taken through the state budget appropriations process are not included in this document. The legislation highlighted below generally represents stand-alone bills.

#### 2008 LAWS OF NOTE

Several new laws are noteworthy because they exemplify a current trend or a new or emerging idea. The bills described here include early childhood block grants; prekindergarten expansion, including prekindergarten for all; quality rating systems; public-private partnerships; child care subsidies; and child poverty councils.

In **Kansas**, the Legislature approved a new \$11 million **early childhood block grant** program to be administered by the Children's Cabinet (HB 2946, Chap. 184). Funds can be directed to school districts, child care centers and homes, Early Head Start providers, Head Start providers, and community-based programs that provide child development services for at-risk infants, toddlers and their families, and preschool for 3- and 4-year-olds. The focus of the grants will be to support research-based programs for at-risk children and underserved areas. A minimum of 30 percent of the funds are set aside for infant and toddler programs. A trend in states is to create block grants to support early childhood development and early learning. Arizona and Pennsylvania block grants are geared to preschool or other education priorities, and Illinois' block grant funds preschool programs for at-risk infants and toddlers.

States continue to **expand prekindergarten** programs. In 2008, states increased funding by almost \$540 million. In 2008, according to PreK Now, even as states face tough budget conditions, 32 state legislatures and the District of Columbia increased funding for prekindergarten by \$316 million.<sup>1</sup> **Alabama** appropriated \$20 million to the Office of School Readiness, an increase of \$7.4 million from the previous year (SB 51, Act. 552).

This is the third consecutive year for prekindergarten increased funding in Alabama. In addition, bills passed in Louisiana and the District of Columbia set the goal of serving all prekindergarten-age children. **Louisiana** has steadily expanded prekindergarten programs and this year enacted legislation to phase in prekindergarten for all children by the 2013-14 school year (SB 286, Act 876). The **District of Columbia** enacted legislation to serve all 3- and 4-year-olds with voluntary, high-quality prekindergarten within five years, while improving the quality of existing prekindergarten programs that serve 3- and 4-year-olds (B 537, Law Number 202).

One trend sweeping the country is development of **quality rating and improvement systems**. Designed with a mix of standards, ratings, quality improvement and incentives, these systems are moving states toward a new generation of high-quality child care and preschool programs. At last count, 17 states have such systems and more than 25 are exploring or designing one.<sup>2</sup> **California** and **Delaware** enacted legislation to develop quality rating and improvement systems.

States are working with the private sector on new child care and early education initiatives. A recent report by the National Governors Association Center for Best Practices identified **public-private partnerships** in Alaska, Arizona, Connecticut, Michigan, Nebraska, North Carolina, Oklahoma, South Carolina, Vermont, Virginia and Washington.<sup>3</sup> In 2008, **Pennsylvania** established the Pennsylvania Early Learning Investment Commission, which will be composed of business and government leaders to focus on improving and expanding Pennsylvania's investment in early childhood initiatives (EO 18).

**Expansion of child care subsidy funding** has been another trend in recent years as states increased eligibility, offered higher reimbursement rates, or funded quality rating and improvement systems. From FY 2007 to FY 2008, states increased child care funding by more than \$672 million. One 2008 example is an increased appropriation in **New Mexico** of \$5 million to maintain eligibility for the child care program at 165 percent of federal poverty guidelines and an additional \$2.2 million to begin increasing eligibility to 200 percent of the guidelines. (HB 7a, Chapter 2)

States also are tackling the issue of poverty. During the last three years, several states have created a commission, set a statewide goal for poverty reduction or created a legislative caucus.<sup>4</sup> In addition to creating poverty councils, some states are creating **child poverty councils**. **Louisiana** created a child poverty council as part of its "Half in 10 Campaign," which aims to cut poverty in half in 10 years. The Child Poverty Prevention Council will seek public and private funds to finance the initiative (SB 660, Act 559). Four states proposed child poverty councils, and in 2008 two named early childhood as a component of the council's work. Efforts to support early childhood development and early learning often are targeted to poor children. These efforts offer the opportunity to combine the early childhood and poverty reduction strategies.

## LAWS BY CATEGORY

### Task Forces, Studies and Governance

Each year, a number of legislatures enact laws that change a state governance structure or create a task force or study entity to plan and make recommendations for child care and early education.

In 2008, 12 states—California, Colorado, Florida, Hawaii, Illinois, Louisiana, Maine, Massachusetts, Minnesota, Pennsylvania, Rhode Island and Virginia—established new offices or councils or commissioned studies to address early care and education issues.

- **California** passed a law to establish a quality rating system advisory committee, which will develop policy and an implementation plan for an Early Learning Quality Improvement System. (SB 1629, Chapter 307)

- **Colorado** created a Child Care Provider Reimbursement Rate Task Force charged with studying the most efficient and cost-effective way to adopt consistent, statewide child care provider reimbursement rates. (SB 210, Chapter 423)
- **Florida** enacted legislation to allow the use of telecommunication methods during early learning coalition board meetings. (HB 879, Chapter 196)
- The **Hawaii** Legislature passed a law to establish an early learning system, Keiki First Steps, to ensure a wide range of high-quality early learning opportunities for children. The law also establishes an early learning council through the Department of Education to administer the system. The law also establishes the Pre-Plus program under the Department of Education to expand access to affordable, high-quality early childhood education for 3- to 4-year-olds from low-income families by permitting prekindergarten programs on public school campuses. (SB 2878)
- The **Illinois** General Assembly created the Commission on Children and Youth under the Office of the Governor to create a comprehensive five-year plan to provide services to children, youth and young adults from birth to age 24. (HB 4456, Act 95-781)
- **Louisiana** established the Child Poverty Prevention Council with the primary goal of reducing child poverty by 50 percent over the next 10 years through programs and public-private partnerships. The law requires the council to seek private funding to be used with public funds to finance its poverty reduction efforts. (SB 660, Act 559)
- **Maine** passed two bills. One created the Maine Children's Growth Council to develop a long-term plan for investment in the healthy development of children and their families. It also created a voluntary universal home visiting program subject to available appropriations. A second law requires the Department of Education to prepare quarterly reports regarding any progress or decline in the state's regional early intervention sites, in complying with federal or state requirements. For a regional site for which the Department of Education has taken temporary operating responsibility, the report also must include the expected return of responsibility to the regional site. (HB 1671 a, P.L. 683)(SB 767, P.L. 530)
- A **Massachusetts** law to establish a universal prekindergarten program (see full description in the prekindergarten expansion section) also created a state advisory council on early education that will work to establish formal quality and performance standards. (HB 4706, Chap. 215)
- **Minnesota** established an advisory council on early childhood education to comply with the Federal Improving Head Start for School Readiness Act of 2007. The Legislature also passed a bill that added four legislators, two each from the House and Senate, and two parents with children under age 6 to the council. (EO 35)(HB 1812, Chapter 363)
- **Pennsylvania** Governor Ed Rendell signed two executive orders that established new councils or commissions. One established the Early Learning Council and directs the council to plan for expansion of early learning and development services for young children and their families. The second created the Early Learning Investment Commission and requires the commission to secure support for public investment in early learning by focusing on practices that are educationally, economically and scientifically sound. (EO 17)(EO 18)
- The **Rhode Island** General Assembly passed legislation extending the Special Legislative Commission to Study Transportation for Afterschool and Child Care Programs and extending the reporting dates for the commission to Feb. 5, 2009. (HB 8158, Resolution 380)

- **Virginia** passed a bill to modify the membership of the Child Day-Care Council. (HB 478, Chapter 123)

### Prekindergarten Programs

Twenty states and the District of Columbia enacted prekindergarten legislation to expand programs and address program quality and program components, including legislation passed by states that currently do not have state-funded prekindergarten programs.

#### *Prekindergarten Expansion and Funding*

Nine states—Alabama, California, Colorado, Iowa, Illinois, Kansas, Louisiana, Massachusetts and Michigan and the District of Columbia—passed legislation to increase funding for prekindergarten programs.<sup>5</sup> Two states enacted legislation to phase in voluntary high-quality prekindergarten programs for all prekindergarten-age children.

- **Alabama** appropriated \$20 million to the Office of School Readiness, an increase of \$7.4 million from the previous year. The state also appropriated \$950,000 in state funds (flat funding) to supplement the state's Head Start program. (SB 51, Act. 552)
- The **California** Legislature enacted legislation to expand the State Preschool Program as part-day and full-day educational programs for low-income or disadvantaged 3- and 4-year-old children. The law also sets minimum yearly operating hours and days for part-day and full-day state prekindergarten programs and specifies eligibility requirements. (AB 2759, Chap 308)
- The **Colorado** General Assembly increased funding to the Colorado Preschool Program by an estimated \$21.6 million, for a total of \$67.3 million. (HB 1388, Chap. 286)
- **Iowa** appropriated \$15 million to its four-year-old preschool program. The legislature also appropriated \$400,000 for implementation of Early Head Start projects targeting infants and toddlers in low-income families. This is the second year of funding in the projected three-year phase-in of the program. (HB 269, Chap. 1181)
- **Illinois** increased funding for its Preschool for All program by \$28.8 million. The General Assembly also removed certain provisions that limit funding distribution so the state can achieve its goal of preschool for all. (HB 4705, Act 95-724)
- **Kansas** appropriated \$11 million for a new early childhood block grant program through the Children's Cabinet, which targets some funding for prekindergarten. This law also appropriated \$1.85 million for the state's Early Head Start program. (HB 2946, Chap. 184)
- **Louisiana** enacted legislation to phase in prekindergarten for all preschool-age children by the 2013-14 school year. (SB 286, Act 876)
- **Massachusetts** legislation establishes a universal prekindergarten program. The law directs the Department of Early Education and Care to develop a state policy on kindergarten transition and create recommendations for the program, financing and phase-in options for program development and implementation. The legislation also created a state Advisory Council on Early Education that will work to establish formal quality and performance standards. (HB 4706, Chap. 215) The legislature passed a similar bill in 2006 that was vetoed by the governor.
- **Michigan** increased appropriation by \$4.7 million to \$98.3 million for its Great Start School Readiness program. (HB 5531, Act 112)

- The **District of Columbia** enacted legislation to establish a voluntary, high-quality prekindergarten program within five years (by 2014) for all 3- and 4-year-olds who. The law also specifies improving the quality of existing prekindergarten programs that serve 3- and 4-year-olds. (B 537, Law Number 202)

### *Preschool Program Components*

Seven states—Colorado, Connecticut, Maine, Minnesota, Tennessee, Vermont and Washington—enacted legislation pertaining to preschool alignment, teachers, quality and transportation.

- **Colorado** enacted legislation to require each preschool student to have a numerical identifier that would follow the child through the state's P-16 system. The law requires the state Board of Education to adopt school readiness guidelines and assessments to address a child's ability and improvements and to measure a child's readiness for elementary school. (SB 212, Chap. 209)
- **Connecticut** enacted legislation that permits the commissioner of education to grant an extension for accreditation or re-accreditation to school readiness programs. The Department of Education must conduct an on-site assessment of any such program before approval is granted and list the conditions the program must fulfill to become accredited or re-accredited (HB 5824, Act 161)
- The **Maine** Legislature passed two bills that address preschool. One clarifies that public preschool students are included in the group of elementary students for which transportation is required by school districts. (HB 1446, P.L. 572) The other law requires state Board of Education rules be amended to establish teacher eligibility for an endorsement for those employed during a certain period of time in a preschool to third grade program. (HB1501, P.L. 672)
- **Minnesota** enacted legislation that requires a school board to employ only qualified, licensed teachers for the early childhood family education programs. (SB 2796, Chap. 266)
- **Tennessee** passed legislation to direct the Office of Education Accountability to survey each local education agency that offers a prekindergarten program to determine if all employment rights and benefits for K-12 teachers also apply to prekindergarten teachers. (HJR 811)
- **Vermont** enacted legislation that grants presumptive eligibility at a three-star level if certain regulatory requirements are met for one year to a prekindergarten program not yet participating in the STARS program. The law also requires existing programs to comply with state provisions related to child development assessments and contract negotiations. (HB 884, Act 132)
- **Washington** requires the Department of Early Learning to develop a statewide Washington Head Start Program that is aligned with the state's Early Childhood Education and Assistance (ECEAP) prekindergarten program. It must adhere to federal Head Start program eligibility criteria, guidelines and performance standards. The law also requires the department to include a timeline and funding needs to implement a statewide Early Head Start program as a component of the state's overall plan. (HB 3168, Chap. 164)

### *States Without Prekindergarten*

Most—but not all—states operate a state-funded prekindergarten program. In 2008, five states—Alaska, Idaho, New Hampshire, Rhode Island and Utah—that did not have state-funded prekindergarten programs enacted legislation to study or develop a new prekindergarten program, to reinstate funding or to redefine elementary education. Alaska, Idaho and Utah directed new funding for Head Start programs, one of the options being used by 16 other states. These funds serve additional children in Head Start, provide expanded hours, or fund other quality initiatives such as professional development.<sup>6</sup>

- **Alaska** passed legislation to expand the definition of an elementary school to include a pre-elementary program supervised by the Department of Education and Early Development, operated by the Department of Health and Welfare as a Head Start program, or located in a public school for federal funding purposes. The law does not allow prekindergarten students to be counted in a school's average daily attendance. (HB 332, Chap. 117)
- The **Idaho** Legislature directed the department to maintain Head Start appropriations paid from Temporary Assistance for Needy Families (TANF) funds at the FY 2007 level. (HB 653, Chap. 326)
- **New Hampshire** law creates a committee to study the feasibility of creating a preschool incentive fund program. (HB 1299, Chap. 284)
- **Rhode Island** passed legislation to require the Department of Elementary and Secondary Education to plan a pilot prekindergarten program for 3- and 4-year -olds who reside in communities with low-performing schools. The law requires the state, in cooperation with private philanthropic organizations, to establish a statewide, comprehensive, research-based early childhood workforce development scholarship program to expand the number of early childhood educators who have an associate's or bachelor's degree in early childhood education. (SB 2921, Public Law 2008-110)
- For the first time **Utah** appropriated \$100,000 for state supplemental funding of Head Start programs. (HB 330, Chap. 198) The Legislature also passed a bill to create a pilot home-based, school readiness program. (SB 2, Chap. 397)

## Child Development

### *Quality Rating and Improvement Systems*

States continue to pass legislation to develop quality rating systems to improve the quality of child care settings. These systems rely on an incentive-based approach to moving child care providers from a basic license to higher quality. The programs often include a quality improvement component to help providers reach higher levels of quality. In 2008, two states—California and Delaware—passed legislation to develop plans for quality rating systems.

- **California** established the Early Learning Quality Improvement System Advisory Committee to develop policy for an early learning quality improvement system. (SB 1629, Chapter 307)
- The **Delaware** General Assembly passed legislation directing the Department of Education to develop and oversee the state's quality rating and improvement system. (SB 222, Chapter 313)

### *Birth To Five*

States also are providing services to children from birth to age 5 through a mix of early childhood and family support programs. In 2008, three states—Florida, Kansas and Washington—adopted legislation to address these issues.

- **Florida** enacted legislation that authorizes expenditures from the Welfare Transition fund to be used for the Home Instruction Program for Pre-School Youngsters (HIPPPY). The bill appropriates \$1.4 million to the home visiting program, a reduction of \$1 million from FY 2008. (HB 5001, Chapter 196)
- **Kansas** enacted legislation that provides \$11 million for a new early childhood block grant program for at-risk children from birth to age 5. (HB 2946, Chapter 184)

- **Washington** appropriated \$3.5 million to expand the Washington Council for Children and Families home visitation program between fiscal years 2008 and 2009. (HB 2687, Chapter 329)

### Child Care

New state child care laws address financing, licensing, family child care, and health and safety. One new area for legislation has been family child care. Although the percentage varies greatly among states and regions, a significant percentage of children are cared for in family child care homes or in the homes of family, friends and neighbors.

### Financing

At least five states—California, Colorado, New Hampshire, New Mexico and North Carolina—passed stand-alone legislation regarding child care financing and funding.

- **California** gave San Mateo County five more years to develop and implement a child care subsidy plan to address local needs. (SB 1304, Chapter 61)
- The **Colorado** General Assembly passed two bills that addressed child care financing. One extends an income tax credit for contributions to promote child care. A second permits counties to increase the income eligibility level for the Colorado Child Care Assistance Program from 225 percent of federal poverty guidelines to 85 percent of the state median income. The law also specifies that, if a county reduces its income eligibility level for the program, a child who was eligible for the program under the former level will remain eligible until the family's next eligibility determination or six months, whichever is longer. (HB 1049, Chapter 443)(HB 1265, Chapter 141)
- **New Hampshire** passed legislation that authorizes rate increases and adjustments for child care providers based on the operating budget and the July 1, 2008, state plan. It moves to unrestricted status the appropriation to the Department of Health and Human Services for TANF child care copayments. (SB 325, Chapter 36)
- **New Mexico** lawmakers appropriated \$5 million to maintain eligibility for the child care program at 165 percent of the federal poverty guidelines and an additional \$2.2 million to begin increasing eligibility to 200 percent of the guidelines. (HB 7a, Chapter 2)
- **North Carolina** enacted legislation that allows the state Partnership for Children to keep any unexpended funds for FY 2008 and each following fiscal year, and allows the partnership to reallocate those funds to local partnerships. (HB 685, Law 123)

### Licensing/Facilities

Maryland, Oklahoma and Tennessee enacted legislation on child care licensing or facilities.

- **Maryland** now requires a child care center that receives an emergency suspension notice to immediately cease operations. Previous law required a center to cease operations within 72 hours. (SB 184, Chapter 156)
- **Oklahoma** requires child care facilities to carry \$200,000 in liability insurance to cover the cost of an injury to a child while in the care of the facility. The law states that any facility that cannot, for financial reasons, acquire insurance must notify parents of the center's lack of coverage. (HB 2863 Chapter 58)
- **Tennessee** enacted legislation to require child care agencies to begin employee testing for drugs as a condition of licensing. (SB 2886, Chapter 1068)

*Family Child Care Providers*

Maine, Mississippi and Virginia enacted legislation pertaining to family child care providers.

- **Maine** enacted a law that would classify family child care workers as public employees for the purpose of collective bargaining. (HB 1481 P.L. 672)
- **Mississippi** enacted legislation to require child care providers who are exempt from licensing laws but who voluntarily choose to obtain a license be subject to all provisions of the licensing law. The law also increased the licensing fee to \$400. (SB 2451, Chapter 495)
- The **Virginia** General Assembly passed a bill to create the Screened Family Day Home Provider list. It permits any unlicensed provider who has no complaints of child abuse or neglect, no convictions for certain crimes, and no pending charges involving child abuse to voluntarily apply to be included on the list. (HB 3, Chapter 198)

*Health and Safety*

Seven states—Alabama, Indiana, Kentucky, Maine, Tennessee, Utah and Michigan—passed legislation to address the health and general welfare of children.

- **Alabama** passed a resolution to request the state Department of Health to review the state's vaccination requirements and to include the invasive pneumococcal disease vaccine on the list of required vaccinations for children entering child care. (HJR 244, Act 371)
- The **Indiana** General Assembly enacted legislation designed to prevent childhood lead poisoning by establishing the childhood lead poisoning fund, to finance outreach and prevention activities. The law also creates the Lead-Safe Housing Advisory Council to make recommendations on lead poisoning prevention. (SB 143, P.L. 102)
- The **Kentucky** legislature passed a bill requiring anyone seeking certification as a family child care provider to complete a tuberculosis risk assessment, including any appropriate skin testing or chest x-rays in accordance with the recommendations of the Centers for Disease Control and Prevention. (HB 187, Act 144)
- **Maine** now requires the Department of Health and Human Services to adopt rules to allow a child care facility or family child care provider to use a lake or pond without a lifeguard on duty as long as written permission is obtained from a child's parent before participating in water activities. (HB 1417, Resolve 199)
- **Michigan** legislation requires child care centers that received notice of an investigation of the center to contact all parents of children who may have been present at the time of the incident or to notify families if a current employee of the center is being investigated. (SB 97, Act 15)
- **Tennessee** adopted three measures. One requires the Department of Health to add the invasive pneumococcal disease vaccine to the list of required vaccinations for children entering child care. The second aims to increase immunization awareness among parents of children in child care by publishing information about the benefits of annual immunization against influenza on the Department of Health's website. The third requires agencies to obtain parental consent before engaging in personal safety instruction related to prevention of child sexual abuse. (HJR 1024)(SB 3270, Chapter 687)(SB 3419, Chapter 1032)
- A **Utah** law requires background checks for child care providers. The law also bars any individual convicted of a felony or certain misdemeanors from providing subsidized child care. (HB 73, Chapter 059)

## METHODOLOGY

This document was prepared by Stephen Fagan, Julie Poppe and Steffanie Clothier. The authors used State Net, a legislative tracking database, to perform the bill searches. If you wish to contribute information about your state or have questions about the content, contact Stephen Fagan (303) 364-7700, ext. 1374, or Stephen.Fagan@ncsl.org. *Please note:* This document contains legislation enacted in the 2008 legislative session. It is intended to provide examples of significant legislation in each state and does not include bills with technical changes. Please also note that this list does not represent a comprehensive list of all state budget appropriation bills.

## NOTES

1. Jennifer V. Doctors, *Votes Count: Legislative Action on Pre-K Fiscal Year 2009* (Washington D.C.: Pre-K Now, 2008).
2. National Child Care Information and Technical Assistance Center, "Quality Rating Systems: Definition and Statewide Systems," <http://nccic.acf.hhs.gov/pubs/qrs-defsystems.html>.
3. Sarah Daily, Anna Lovejoy and Joan Lombardi, *Partnering with the Private and Philanthropic Sectors: A Governor's Guide to Investing in Early Childhood*, (Washington D.C.: NGA Center for Best Practices, 2008).
4. Spotlight on Poverty and Opportunity, "Statewide Anti-poverty Initiatives," <http://www.spotlightonpoverty.org/statewide.aspx>.
5. This includes only stand-alone bills not all the state budget appropriations to prekindergarten in 2008.
6. W. Steven Barnett et al., *The State of Preschool 2007* (New Brunswick: National Institute for Early Education Research, 2008), 235-237.



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