



NCSL REPORT

Early Care & Education

Child Care and Early Education 2011 Legislative Action

Legislatures in 38 states continued to make slow but steady progress to close budget gaps—totaling \$91 billion for FY 2012—during the 2011 session. In several states, including Alabama, California and Nevada, budget gaps exceeded 30 percent of total budgets. Revenue growth continued to be slow but steady for states; 43 states reported improvements, and—Alaska, Illinois, Michigan, Tennessee, Texas and Vermont—reported growth exceeding 10 percent. Louisiana, New Hampshire Wyoming and Puerto Rico reported the largest declining revenues. Spending increases also have occurred in 36 states, including Florida, Massachusetts, Nevada and Tennessee, where large spending increases were made in the education and human services budgets.

Amid the state budgetary challenges and funding cuts across numerous state programs, funding for early education and care was similarly subjected to reductions or elimination, especially such programs as state prekindergarten and child care subsidy that previously were expanded using American Recovery and Reinvestment Act (ARRA) stimulus funds.

2011 Laws of Note

During the 2011 legislative session, 49 states, the District of Columbia and Puerto Rico introduced 724 bills on early childhood education and child care. Of those, 133 bills in 37 states were signed into law.

Governance and system coordination continued as a key theme in 17 state legislatures. New statewide governance bodies were established or their roles were strengthened through legislation in **Oklahoma** and **Oregon**. Governance and early childhood systems improvement efforts also played a role in the **Colorado** legislature, where lawmakers repealed the single state Early Childhood Advisory Council and instead created a system of county-based councils (SB 247, Chapter No. 239). **Connecticut** lawmakers enacted SB 1103 (Public Act 11-181), adding new parent and center-based child care representatives to the state early childhood council and establishing a new governor-appointed director position to lead the council's work to align policies and resources to best serve families and their children from birth through age 8. **North Dakota** and **Maine** are among other states that also enacted legislation to strengthen state efforts to coordinate early childhood systems and councils (SB 2150, Chapter No. 147 and HB 1093, Public Law 2011-388, respectively).

In addition to governance and system coordination, state legislators also examined **funding mechanisms** to ensure that funds effectively reach state early childhood programs and services. Enacted bills in this area include those in **Delaware**, **New Mexico** and **Oregon** (HB 1, Chapter No. 5; SB 167, Chapter No. 2011-126; and SB 800, Chapter No. 313; respectively). **Arkansas** legislators also authorized grant funding to support an early childhood education public-private partnership or foundation through HB 1916 (Act No. 636).

Legislatures addressed *prekindergarten quality and school readiness* in 16 states—including **Connecticut, Louisiana, Maryland** and **New Mexico**—focusing on teaching standards and curriculum quality, in addition to tracking early childhood program results. Legislators in **Arkansas** passed SB 337 (Act No. 1130), which requires the evaluation of state-funded early childhood programs using nationally recognized standards that focus on curriculum and learning environment, staff training and education, ratios, health and safety conditions, and family involvement.

In 2011, state legislatures continued to pay close attention to student achievement, particularly third-grade reading proficiency as a critical benchmark for student academic success. States used a number of approaches to address the issue, including retention of third-graders only, third-grade retention with provisions for remediation and early-grades literacy development, or early-grades literacy development only. Of the seven states that introduced legislation to address grade-level reading in 2011, **Oklahoma** and **Tennessee** laws would retain third graders who are not assessed as proficient based on state reading standards (SB 346, Chapter 171 and SB 1776, Chapter 351, respectively). The new Oklahoma law also outlines provisions for intensive reading remediation for struggling students and requires reading assessments to be conducted for students from kindergarten to third grade. **Massachusetts** SB 188 (substituted by HB 4243, which passed both houses at the time of this report) would establish an expert panel to develop a comprehensive statewide birth to school age literacy plan.

Twenty-six states passed legislation addressing *child care quality and financing*. Legislation aimed at controlling the cost of child care was enacted in **Arkansas, California, Florida, Illinois, Maine** and **Nebraska**. Several states also passed legislation to encourage and offer incentives to low-income parents to work or attend school through parent copayment waivers (**Illinois** SB 1236, Public Act No. 97-422) or child care assistance in exchange for attendance toward a high school diploma (**Montana** SB 385, Chapter No. 287). Raising training standards for providers was a central topic for several enacted bills in **Texas** (SB 260, Chapter No. 882; SB 265, Chapter No. 82; and HB 434, Chapter No. 471). Legislators in **Georgia, Illinois, Louisiana, Maryland, Maine** and **North Dakota** also enacted legislation to improve health and safety standards in center- and family-based child care settings.

Legislation addressing the *early childhood education workforce* was enacted in 12 states. Topics range from criminal background check requirements for providers, to medication administration training, to other health- and safety-related training requirements. **Connecticut** SB 927 (Public Act No. 11-54) requires that at least 50 percent of teachers in state-funded programs must hold a higher education degree or certification in early education and sets a state goal of 100 percent by 2020. **Oklahoma** HB 1274 (Chapter No. 82) allows certified elementary teachers to be similarly certified to teach early education.

States appropriated a variety of funding through state departments of health and human services, among others, to be used for *home visiting* programs in 2011, including passage of more stringent criteria and standards of quality. **Maine** passed legislation requiring the state Department of Health and Human Services to develop a comprehensive three-year plan for state home visiting that includes services to high-risk communities, proven strategies and mechanisms for financing (HB 1105, Resolve No. 2011-77). **Ohio's** Help Me Grow home visiting program will be required to report program data and evaluation findings to the state director of public health as required by HB 153 (Session Law No. 28).

Laws by Category

Early Childhood Governance, System Coordination and Financing

Twenty-three states enacted legislation aimed at enhancing governance structures, cross-agency coordination and accountability of early childhood programs. Enacted 2011 legislation aimed at expanding the role and responsibility of state early childhood governance structures include the following.

- **Alaska** SB 1 (Chapter No. 14) requires the state Board of Education and Early Development to provide annual reports to the Legislature about its efforts and policies as part of the development of a comprehensive public education system. The bill also creates a joint legislative task force to compile data and advise the Legislature about ways to improve public school curricula.
- **Arkansas** HB 1916 (Act No. 636) allows certain funds for child care facilities to go toward a public-private partnership or private foundation in order to effectively leverage various funding streams.
- **Connecticut** SB 1103 (Public Act 11-181) requires the Early Childhood Education Cabinet to coordinate a system of early care and education and to align policies, responsibilities, practices and services for young children and families. The law also requires development and implementation of a longitudinal early childhood information system to track health, safety and school readiness of children in state-funded programs.
- As part of the state's government reorganization efforts, **Florida** lawmakers passed SB 2156 (Chapter No. 2011-142) to transfer the roles and duties of the Agency for Workforce Innovation to the Office of Early Learning (OEL) within the Department of Education. The law establishes the OEL as a separate budget entity; its director is appointed by the governor. Primary responsibilities of the OEL director include coordinating the state's comprehensive system of early learning and care, administering and overseeing the state voluntary prekindergarten (VPK) program (including oversight of the state's early learning coalitions), and providing assurances that parental choice for early learning settings are preserved. The OEL and director also will oversee local efforts to develop a child care purchasing pool.

The Florida Legislature also passed SB 2162 (Chapter 2011-157), establishing a new Welfare Transition Trust Fund. The fund will serve as the depository of TANF block grant funds, from which the OEL will allocate funding to various state school readiness programs. The trust fund program will be in effect until 2015 unless otherwise extended by the Legislature.

- In addition to transferring various education grants to the state lottery fund for funding early childhood programs, **Nebraska** LB 333 approves a funding request by the Department of Education for an integrated early childhood, elementary, secondary and post-secondary student information system for \$500,000 in FY 2011-12 and approximately \$100,000 for biennia up to 2015-16.
- **Nevada** SB 340 (Chapter No. 261) transfers the regulatory duties and responsibilities of licensed child care facilities to the Department of Health and Human Services.

The following states created new governance entities to oversee state early childhood programs and services, and defined their roles and responsibilities.

- Lawmakers in **Colorado** passed SB 247 (Chapter No. 239) to create a statewide integrated system of early childhood councils in an effort to preserve and strengthen local authority on availability, acces-

sibility, capacity and quality of programs and services throughout the state. The law also repealed the provision for a single state-level council.

- The **Louisiana** Legislature passed SR 139, calling for joint efforts and partnerships between state agencies to support the work of Bright Start, the state early childhood advisory council.
- **Maine** SB 490 (Public Law 2011-346) creates the prekindergarten through postsecondary grades Science, Technology, Engineering and Mathematics Council. The law requires the council to develop strategies to increase student achievement in specified areas.
- Lawmakers in **New Mexico** enacted legislation to establish the state Early Childhood Advisory Council through SB 120 (Chapter No. 2011-123) and puts forth a new requirement (SB 167, Chapter No. 2011- 126) that funding appropriated for pre-kindergarten programs must be allocated equally, regardless of whether they are administered through the Department of Public Education or Department of Children, Youth and Families.
- **Oklahoma** SB 206 (Chapter No. 182) creates the state's P-20 Council Task Force to study the feasibility, value and structure of a P-20 council or educational partnership to ensure a seamless system of education that maximizes achievements of all students from early childhood through postsecondary education.
- **Oregon** SB 909 (Chapter No. 519) creates an Early Learning Council (as part of the Oregon Education Investment Board) that is charged with development and oversight of a P-20 unified public education system. SB 800 (Chapter No. 313) eliminates the Early Childhood Trust Fund and allows the Department of Education to allocate funds and provide grants directly for early childhood services, such as early childhood special education and early intervention services.
- **Texas** HB 3404 (Chapter No. 1312) creates a child care advisory committee to advise state employees on child care services such as location, site, design and curriculum.
- Lawmakers in **Washington** called for increased collaboration, public-private investments in early childhood education, and cross-agency cooperation through enacted HB 1965 (Chapter No. 32) and SB 5389 (Chapter No. 177).

Enacted 2011 legislation that increase reporting and accountability requirements include the following.

- The **Arkansas** legislature, through SB 337 (Act No. 1130), requires the Division of Child Care and Early Childhood Education to report to the governor and legislature the results of early childhood program quality assessments to ensure that programs receiving state funding use nationally recognized standards and assessments to measure the curriculum quality, classroom environment, and staff training and education.
- **Illinois** SB 1742 (Public Act 097-0238) requires the Chicago school district to adhere to statewide uniform reporting requirements for early childhood program allocations, expenditures, populations served, and program quality for programs and services that receive funding through the Early Childhood Education Block Grant.
- **Maine** HB 1093 (Public Law 2011-388) requires the Children's Growth Council to report to the Legislature every two years on the activities and accomplishments of the council and its long-term plan for the state early childhood investment.

- **Maryland** SB 104 (Chapter No. 421) moves up the date by which the Judith P. Hoyer Early Child Care and Education preschool program must provide the annual report to the legislature detailing whether programs are meeting professional development accreditation standards.
- **North Dakota** SB 2150 (Chapter No. 147) requires the state early childhood education council to review access and availability of early childhood programs, identify opportunities for public-private funding and collaboration, identify mechanisms to recruit and retain quality teachers and providers, and seek advice from early childhood experts regarding program implementation and expansion.

Prekindergarten Quality and School Readiness

Legislative proposals aimed at improving school readiness for children in state prekindergarten settings were enacted in 16 states. Lawmakers enacted bills requiring implementation of statewide kindergarten assessments, alignment of state training standards to national standards, and tracking of program results.

- The **Arkansas** legislature enacted SB 337 (Act No. 1130), requiring the Division of Child Care and Early Childhood Education to ensure that any early childhood program that receives state funding use nationally recognized standards and assessments to measure the quality of curriculum and classroom environment, student assessments, and staff training and education.
- The **Florida** Legislature passed HB 1255 (Chapter No. 2011-175), requiring the Board of Education to review and revise, as needed, statewide kindergarten screening and readiness assessments, and to evaluate data in order to assess the progress of voluntary prekindergarten providers (both public and private) in terms of preparing their students for school.
- Lawmakers in **Louisiana** enacted two bills aimed at improving school readiness for young children. HB 100 (Act No. 249) requires schools to conduct valid and reliable readiness assessments for incoming kindergarteners to determine instructional needs and to gauge hearing and vision abilities. Previously, only nationally recognized readiness screening was required for incoming kindergarteners. The law also requires the Department of Education to consult with child care agencies, Head Start, the state preschool program and the state early learning council to review test results. The Louisiana Legislature also passed HB 373 (Act No. 102), allowing nonpublic elementary schools to develop and offer prekindergarten programs. The law lowers the eligible age for incoming prekindergarten students from age 4 to age 3 and applies the same rule for incoming kindergarteners and first graders to age 4 and age 5, respectively.
- **New Mexico** SB 605 (Chapter No. 104) allows prekindergarten programs provided by Title I public schools to be reimbursed at the per-child state rate and outlines service requirements that a program must provide in order to receive state reimbursements.
- **Vermont** SB 53 (Chapter No. 38) removes limits that previously existed for school districts' prekindergarten membership calculation for property tax assessments.

Early Literacy Development and Grade-Level Reading

In addition to working to improve early childhood program quality, legislatures in 2011 enacted legislation to address early literacy development and reading proficiency starting with their states' youngest populations. While some states passed legislation prohibiting grade promotion of third graders who do not demonstrate reading proficiency, other states focused their efforts on developing reading remediation strategies and ways to identify students at risk for reading deficiency in the early grades.

- **Oklahoma** SB 346 (Chapter 171) includes provisions for intensive reading remediation and instruction for students in kindergarten through third grades in addition to provisions that prohibit grade promotion.
- **Massachusetts** SB 188 (engrossed as HB 4243 at the time of this report) would establish an early reading council to address reading proficiency as part of school districts' comprehensive birth-to-5 school readiness plans.
- **Tennessee** enacted legislation to address reading proficiency and grade retention. SB 1776 (Chapter 351) requires retention of third graders until the student has demonstrated reading proficiency.

Child Care Quality and Financing

Twenty-six state legislatures passed bills to increase standards for program quality, address the cost and financing mechanisms of subsidized child care, and update licensing standards and regulations.

- **Arkansas** SB 337 (Act No. 1103) requires the use of nationally recognized standards and assessments to evaluate and measure the quality of state child care and early education programs, including curriculum and classroom environment, teacher training and education standards, and adult-to-child ratios. Another law, SB 248 (Act No. 982), allows state alcohol sales tax funds to go toward funding low-income subsidized child care and the state-funded "A Better Chance" preschool program.
- Lawmakers in **California** established a new parent fee schedule through AB 114 (Chapter No. 43), which extends eligibility limits for low-income families.
- **Colorado** lawmakers passed HB 1027 (Chapter No. 28) to create a child care pilot program that allows military personnel to use their federal child care benefits and other stipends to access off-base child care programs that meet the high-quality standards established by the U.S. Department of Defense. Lawmakers also passed HB 1014 (Chapter No. 247) to repeal the state child care tax credit until 2013.
- Availability and affordable child care subsidies, particularly for working parents who are receiving TANF support or attending school, were addressed by **Connecticut** lawmakers through HB 6358 (Public Act 11-18).
- In **Illinois**, lawmakers enacted SB 1236 (Public Act No. 97-422), allowing the Department of Human Services to revise copayment scales for families whose only incomes are from public assistance. There are also provisions to waive fees for families living at or below the federal poverty level (e.g., \$22,350 annually for a family of four in 2011) and to prohibit payment increases due to changes in how family income is counted. A similar enacted bill (SB 1235, Public Act No. 097-516) retains the provision to allow the state to establish and operate child care centers in migrant worker communities and to allow for grants-in-aid to child care services provided by local governments, voluntary agencies and nonprofit organizations.
- **Iowa** SB 482 (Chapter No. 98) requires grant funding to community-based nonprofit agencies to implement a statewide child care resource and referral service to better disseminate information and resources to communities across the state.
- **Montana** SB 385 (Chapter No. 287) allows the Parents as Scholars program to use TANF or maintenance of effort funds for child care costs for eligible families engaged in an approved continuing edu-

cation or training program. The law also allows the state to count participation in the program as an extension of the 12-month benefit period.

- **Nebraska** LB 464 changes the child care reimbursement rate from between 60th and 75th percentiles to 50th percentile of market rate effective for the next biennium.
- **Washington** SB 5504 (Chapter No. 296) allows the Department of Early Learning to raise fines (from \$75 to \$150 for each citation) on family child care providers who have failed or refused to comply with licensing requirements. The law also requires public posting of providers who have failed to obtain licensing requirements within 30 days of notification.

Other states also enacted legislation in 2011 to update child care licensing state standards, including employee criminal background checks and health and safety training. These include Arkansas, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Louisiana, Maryland, Maine, Minnesota, New Hampshire, New Mexico, Nevada, North Dakota, Oklahoma, Rhode Island, Texas, Utah, Virginia and Washington.

Early Childhood Education Workforce

Legislators enacted a number of bills to address the quality of the early childhood workforce, including legislation that expands criminal background check requirements for early childhood providers, medication administration training, other health- and safety-related training for staff, and professional development standards.

- **Connecticut** SB 927 (Public Act No. 11-54) requires the Department of Education to develop school readiness standards and requires that at least 50 percent of early childhood education providers in state-funded programs hold a certification in early childhood education certification or a bachelor's degree in early education and child development. The law sets a statewide goal of 100 percent by 2020.
- Lawmakers in the **District of Columbia** enacted B 19-0052 (Act 19-0004) to require the district Early Childhood Development Coordinating Council, the superintendent of education and the University of District of Columbia to coordinate teacher training programs and establish a scholarship program for early childhood teachers and assistants.
- **Florida** enacted HB 139 (Chapter No. 2011-75) to set provider training standards for child care providers who participate in state quality rating improvement programs.
- **North Dakota** HB 1270 (Chapter No. 135) allows the state to issue a state teaching license if the applicant already holds an out-of-state license. The law requires that teachers must hold at minimum a bachelor's degree with a concentration in early childhood education and meet state standards for early childhood education. SB 2298 (Chapter No. 361) establishes a special grant program for licensed early childhood services providers who care for children with special needs, including funding to reduce classroom ratio, modification and improvement of facilities, technical assistance, one-on-one training, and coordination of care plans for children with special needs.
- In **Oklahoma**, lawmakers passed HB 1274 (Chapter No. 82) to allow certified elementary teachers to become certified to teach early education, as long as they meet state standards in the subject area.
- Bills also passed the **Texas** Legislature to increase minimum standards and training requirements for employees in child care centers and require local workforce development boards to establish provider accreditation using nationally recognized standards (SB 260, Chapter No. 882 and SB 264, Chapter

No. 376, respectively). SB 400 (Chapter No. 382) allows child care providers who meet the state quality rating and improvement standards to purchase goods and services from the state cooperative purchasing program.

- **Utah HB 314** (Chapter No. 274) allows the state Department of Transportation to waive requirements that licensed child care providers must comply with minimum federal security requirements when transporting passengers as long as providers carry minimum liability insurance coverage.
- **Washington SB 5172** (Chapter No. 78) allows children of child care workers to use their parents' facilities if such facilities are operated by a licensed nonprofit organization.

Home Visitation and Birth to 5

Home visiting legislation continued to gain momentum in state legislatures in 2011 as the first round of federal competitive grants were awarded to states in the fall of 2011. Twenty-two states won more than \$100 million in expansion and development grants, and 49 states (except North Dakota), five territories and the District of Columbia were awarded formula grants ranging from \$1 million to \$12 million for FY 2011.

- **Colorado** lawmakers appropriated \$13 million to the Department of Public Health and Environment as part of the Nurse-Family Home Visiting program (SB 149, Chapter No. 328), with a stipulation in SB 224 (Chapter No. 155) that suspends the automatic annual state budget increases for the program due to poor state revenue forecasts.
- Lawmakers in **Maine** passed HB 1105 (Resolve No. 2011-77), requiring the state's Department of Health and Human Services to develop a comprehensive home visiting plan for the next three years that emphasizes proven prevention and health strategies for vulnerable families, children and communities. The law also calls on the department to seek creative funding mechanisms from federal, private, local and other revenue sources as needed.
- **New Mexico** legislators passed SB 330 (Chapter No. 2011-166), allowing children who are receiving early intervention and home visiting services through the Family, Infant and Toddler (FIT) program to be moved directly into services administered by the Department of Education upon reaching age 3. This mechanism not only allows new infants and toddlers with identified developmental delays and/or special needs to be served by FIT but also promotes service coordination between state agencies.
- **Ohio** HB 153 (Session Law No. 28) requires the state home visitation program (Help Me Grow) to report to the Department of Health on program performance and indicators as they relate to the program's progress and results.

Other 2011 Enacted Legislation in Early Childhood Education and Care

- **Arkansas** SB 306 (Act No. 584) allows state employees to use leave benefits to participate in their child's prekindergarten activities such as field trips, parent-teacher conferences and extracurricular activities.
- **Illinois** SB 1948 (Public Act 097-0283) requests and specifies a partnership and collaboration between the Department of Healthcare and Family Services, dentists, and early childhood providers such as Head Start centers to coordinate oral health services and establish a dental home initiative as part of the state CHIP program.

- **Texas** SB 76 (Chapter No. 869) requires the Workforce Commission to develop risk assessment protocols to identify and assess possible instances of fraud, waste and abuse in child care programs.

Notes Regarding Methodology of Report

This document was prepared by Phuonglan Nguyen, using StateNet, a legislative tracking database to perform bill searches and analysis. This document is intended to provide an overview of significant enacted legislation in each state and does not represent a comprehensive list of enacted bills with technical changes or state budget appropriations bills. Bills relating to states' implementation of the federal Individuals with Disabilities Education Act (IDEA) also are excluded from this document. Grade-level retention bills are highlighted if they include provisions for early childhood education and development (for a comprehensive list of grade-level reading and retention legislation, please contact Phuonglan Nguyen at phuonglan.nguyen@ncsl.org or 303-856-1582).



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