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SB-168 Child care. (2021-2022)

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Senate Bill No. 168

CHAPTER 261

An act to amend Section 10213.5 of the Welfare and Institutions Code, to amend Section 3 of Chapter 6 of the Statutes of 2021, to amend Section 263 of Chapter 116 of the Statutes of 2021, relating to child care, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 168, Committee on Budget and Fiscal Review. Child care.

Existing law, the Child Care and Development Services Act, provides a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including an alternative payment program that requires the State Department of Social Services to contract with local government agencies or nonprofit organizations to provide alternative payments and to provide support services to parents and providers.

This bill would include migrant alternative payment programs in the definition of "alternative payment programs" for this purpose.

Existing law appropriates money from the Federal Trust Fund to support various programs that provide child care services, including the Emergency Child Care Bridge Program for Foster Children.

This bill would, instead, require specified funding for the Emergency Child Care Bridge Program for Foster Children to come from a prescribed General Fund appropriation and would make technical and other changes to the appropriations for that program.

Existing law establishes reimbursement rates for child care and development services programs. As of January 1, 2022, under existing law, contractors who, as of December 31, 2021, received the standard reimbursement rate are required to receive the greater of the 75th percentile of the 2018 regional market rate survey or the contract per-child reimbursement amount as of December 31, 2021.

This bill, until regulations are filed with the Secretary of State, would authorize the California Department of Education and the State Department of Social Services to implement the revised reimbursement rates by means of management bulletins or similar letters of instruction on or before December 31, 2021. The bill would require those departments to examine the time base and special criteria adjustment factors that impact center-based contractors receiving those reimbursement rates and would specify a process by which the time base and special criteria adjustment factors may be changed. The bill would require the departments to initiate rulemaking action on or before December 31, 2023.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10213.5 of the Welfare and Institutions Code is amended to read:

10213.5. As used in this part:

(a) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(b) "Alternative payment program" means a local government agency or nonprofit organization that has contracted with the department pursuant to Section 10225.5, or a migrant alternative payment program pursuant to Section 10225, to provide alternative payments and to provide support services to parents and providers.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private nontax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(e) "Attendance" means the number of children present at a child care and development facility. "Attendance," for purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(f) "Capital outlay" means the amount paid for the renovation and repair of child care and development and preschool facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development and preschool facilities for lease to qualifying contracting agencies.

(g) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(h) "Child care and development facility" means a residence or building or part thereof in which child care and development services are provided.

(i) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 13 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) General child care and development.

(2) Migrant child care and development.

(3) Child care provided by the California School Age Families Education Program (Article 7.1 (commencing with Section 54740) of Chapter 9 of Part 29 of Division 4 of Title 2).

(4) Resource and referral.

(5) Child care and development services for children with exceptional needs.

(6) Family child care home education network.

(7) Alternative payment.

(8) Schoolage community child care.

(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(l) "Children with exceptional needs" means either of the following:

(1) Infants and toddlers under three years of age who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) and its implementing regulations. These children include an infant or toddler with a developmental delay or established risk condition, or who is at high risk of having a substantial developmental disability, as defined in subdivision (a) of Section 95014 of the Government Code. These children shall have active individualized family service plans, shall be receiving early intervention services, and shall be children who require the special attention of adults in a child care setting.

(2) Children 3 to 21 years of age, inclusive, who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code, and who meet eligibility criteria described in Section 56026 of the Education Code and, Article 2.5 (commencing with Section 56333) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children shall have an active individualized education program, shall be receiving early intervention services or appropriate special education and related services, and shall be children who require the special attention of adults in a child care setting. These children include children with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (also referred to as emotional disturbance), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, who need special education and related services consistent with Section 1401(3)(A) of Title 20 of the United States Code.

(m) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) "Cost" includes, but is not limited to, expenditures that are related to the operation of child care and development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs. "Cost" may also include amounts for licensable facilities in the community served by the program, including lease payments or depreciation, downpayments, and payments of principal and interest on loans incurred to acquire, rehabilitate, or construct licensable facilities, but these costs shall not exceed fair market rents existing in the community in which the facility is located. "Reasonable and necessary costs" are costs that, in nature and amount, do not exceed what an ordinary prudent person would incur in the conduct of a competitive business.

(o) "Elementary school," as contained in former Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(p) "Family child care home education network" means an entity organized under law that contracts with the department pursuant to Section 10250 to make payments to licensed family child care home providers and to provide educational and support services to those providers and to children and families eligible for state-subsidized child care and development services. A family child care home education network may also be referred to as a family child care home system.

(q) "Health services" include, but are not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3) and the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(r) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(s) "Intergenerational staff" means persons of various generations.

(t) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(u) "Parent" means a biological parent, stepparent, adoptive parent, foster parent, caretaker relative, or any other adult living with a child who has responsibility for the care and welfare of the child.

(v) "Program director" means a person who, pursuant to Sections 10242 and 10380.5, is qualified to serve as a program director.

(w) "Proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(x) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(y) "Severely disabled children" are children with exceptional needs from birth to 21 years of age, inclusive, who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, or severe intellectual disabilities. "Severely disabled children" also include those individuals who would have been eligible for enrollment in a developmental center for handicapped pupils under Chapter 7 (commencing with Section 56800) of Part 30 of Division 4 of Title 2 of the Education Code as it read on January 1, 1980.

(z) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, or social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(aa) "Site supervisor" means a person who, regardless of their title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall hold a permit issued by the Commission on Teacher Credentialing that authorizes supervision of a child care and development program operating in a single site. The department may waive the requirements of this subdivision if the department determines that the existence of compelling need is appropriately documented.

(ab) "Standard reimbursement rate" means that rate established by the department pursuant to Section 10280.

(ac) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility before the full enrollment of children.

(ad) "California state preschool program" means part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year-old children.

(ae) "Support services" means those services that, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) "Teacher" means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction that includes supervision of a number of aides, volunteers, and groups of children.

(ag) "Underserved area" means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized child care and development program services to the need for these services is low, as determined by the department.

(ah) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(ai) "Homeless children and youth" has the same meaning as defined in Section 11434a(2) of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).

(aj) "Local educational agency" means a school district, a county office of education, a community college district, or a school district acting on behalf of one or more schools within the school district.

SEC. 2. Section 3 of Chapter 6 of the Statutes of 2021, as amended by Section 262 of Chapter 116 of the Statutes of 2021, is amended to read:

Sec. 3. (a) The Legislature hereby finds and declares the federal Consolidated Appropriations Act, 2021 and Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021 (Public Law 116-260) awarded the state nine hundred sixty-four million three hundred twenty-four thousand four hundred eighty-three dollars (\$964,324,483) in supplemental Child Care and Development Fund program funding to address the needs of childcare providers, including state preschool programs and Emergency Child Care Bridge Program for Foster Children providers, and families resulting from the coronavirus disease 2019 (COVID-19) pandemic.

(b) In response to the COVID-19 pandemic, the Legislature hereby appropriates the sum of three hundred sixty-five million three hundred twenty thousand dollars (\$365,320,000) in federal funds, in addition to the twenty million dollars (\$20,000,000) previously allocated for this purpose in the Budget Act of 2020 (Ch. 8, Stats. 2020), to provide subsidized childcare and preschool providers with COVID-19 pandemic-related assistance.

(c) Of the three hundred sixty-five million three hundred twenty thousand dollars (\$365,320,000) in federal funds, the Legislature hereby allocates the funding as follows:

(1) Two hundred million twenty thousand dollars (\$200,020,000) shall be allocated to provide a flat-rate one-time stipend amount of five hundred twenty-five dollars (\$525) per child enrolled in a subsidized childcare or a state preschool program pursuant to subparagraph (A). The state shall provide the flat-rate one-time stipend amount for all childcare providers and state preschool programs serving children pursuant to this paragraph based on the number of subsidized children enrolled. This flat-rate one-time stipend shall be issued based on program data for November 2020 enrollment. A stipend may be used to support subsidized childcare providers and state preschool programs with COVID-19 pandemic relief, and, in the case of decreased enrollment or closures, to ensure that childcare providers and state preschool programs are able to remain open or reopen.

(A) The flat-rate one-time stipend shall be payable to subsidized childcare providers and state preschool programs operating or serving programs pursuant to Article 3 (commencing with Section 8220) of, Article 6 (commencing with Section 8230) of, Article 7 (commencing with Section 8235), Article 8 (commencing with Section 8240) of, Article 8.5 (commencing with Section 8245) of, Article 9 (commencing with Section 8250) of, or Article 15.5 (commencing with Section 8350) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as these provisions read on February 3, 2021.

(B) Of the two hundred million twenty thousand dollars (\$200,020,000), up to sixteen million dollars (\$16,000,000) shall be allocated to the State Department of Social Services to provide a flat-rate one-time stipend amount of five hundred twenty-five (\$525) per each child enrolled in the California Work Opportunities and Responsibility to Kids (CalWORKs) Stage 1 program pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as these provisions read on February 3, 2021. If additional funding is needed based on program data for November 2020 enrollment, a budget revision shall be submitted by the State Department of Education and the State Department of Social Services to the Controller to shift the appropriate funding amounts identified for CalWORKs Stage 1 providers to or from the State Department of Social Services for distribution.

(C) In addition to the flat-rate one-time stipend amount of five hundred twenty-five dollars (\$525) per child enrolled, the Superintendent of Public Instruction and the State Department of Social Services shall provide alternative payment and direct contract programs with a 5 percent administrative fee for distributing stipends to these providers.

(D) The Superintendent of Public Instruction and the State Department of Social Services shall allocate stipends for distribution to childcare providers and the state preschool programs.

(E) The State Department of Education and the State Department of Social Services shall exchange any essential data necessary to issue stipend payments to childcare providers.

(F) The state may designate another agency or agencies to distribute these funds to childcare providers. Contracts or grants awarded pursuant to this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code. Contracts or grants awarded pursuant to this section shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(G) The funding described under this paragraph is subject to the federal usage limitations and federal and state program eligibility requirements.

(2) (A) Eighty-three million three hundred thousand dollars (\$83,300,000) in federal funds shall be allocated to existing state-subsidized alternative payment programs, including, but not limited to, alternative payment programs for migrant childcare and development programs pursuant to Article 6 (commencing with Section 8230) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, to extend childcare services for essential workers, at-risk children, and children with disabilities or special health care needs whose individualized education programs or individualized family service plans include early learning and care services and who accessed childcare services pursuant to Senate Bill 89 (Chapter 2 of the Statutes of 2020) and were unable to get ongoing childcare services through the additional funds provided in Schedule (3), and described in Provision (7), of Item 6100-194-0890 of Section 2.00 of the Budget Act of 2020, through June 30, 2022, inclusive.

(B) If an alternative payment program projects that it may have unspent funds after childcare services are provided pursuant to paragraph (1), the alternative payment program may utilize the funds to enroll additional children in emergency childcare pursuant to paragraph (3).

(3) (A) Eighty million dollars (\$80,000,000) in federal funds shall be allocated to provide additional emergency vouchers for children of essential workers, at-risk children, and children with disabilities or special health care needs whose individualized education plan or individualized family service plans include early learning and care, whose parent or guardian self-certifies that the family is eligible for services pursuant to Section 8208 of the Education Code and Section 10271 of the Welfare and Institutions Code, through June 30, 2022, inclusive.

(i) Funding shall be divided between the California Alternative Payment Program pursuant to Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code and the Migrant Alternative Payment Program, pursuant to Article 6 (commencing with Section 8230) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, based on the ratio of the Migrant Alternative Payment Program contract amounts to the sum of the California Alternative Payment Program contracts and Migrant Alternative Payment Program contracts.

(ii) Funding for alternative payment programs pursuant to Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code shall be distributed as a percent of the total based on allocated funds pursuant to Section 2 of Senate Bill 89 (Chapter 2 of the Statutes of 2020).

(B) Guidance for enrolling additional children shall be as similar as possible to the guidance issued for children receiving services pursuant to Section 2 of Senate Bill 89 (Chapter 2 of the Statutes of 2020).

(4) One million seven hundred fifty thousand dollars (\$1,750,000) in federal funds shall be allocated to the State Department of Education for administrative costs.

(5) Two hundred fifty thousand dollars (\$250,000) in federal funds shall be allocated to the State Department of Social Services for administrative costs.

(d) (1) A state-subsidized childcare provider operating or serving alternative payment programs pursuant to Article 3 (commencing with Section 8220) of, Article 6 (commencing with Section 8230) of, Article 8.5 (commencing with Section 8245) of, or Article 15.5 (commencing with Section 8350) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as these provisions read on February 3, 2021, shall be eligible for an additional 16 paid nonoperational days when the provider is closed due to the COVID-19 pandemic emergency.

(2) These 16 paid nonoperational days shall be in addition to the current 14 paid nonoperational days for COVID-19 pandemic-related closures allowable pursuant to clause (i) of subparagraph (C) of paragraph (1) of subdivision (d) of Section 60 of Senate Bill 820 (Chapter 110 of the Statutes of 2020), and the current 10 paid nonoperational days allowable by paragraph (2) of subdivision (b) of Section 18076.2 of Title 5 of the California Code of Regulations, between September 1, 2020, and June 30, 2021.

(3) An alternative payment program, a migrant alternative payment program, a family childcare home education network, and a county welfare department administering a subsidized childcare program pursuant to paragraph (1) shall track the usage of paid nonoperational days and associated costs due to the COVID-19 pandemic emergency and short-term childcare to eligible children, pursuant to this subdivision, and report monthly on usage to the State Department of Education and the State Department of Social Services. The use of nonoperational days and associated costs reported to the State Department of Education shall be used to determine reimbursements, as described in this subdivision.

(4) The State Department of Education shall issue guidance to family childcare home education network programs operating pursuant to Article 8.5 (commencing with Section 8245) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as these provisions read on February 3, 2021. This guidance shall direct family childcare home education network programs to

use the additional 16 nonoperational days for COVID-19 related closures not reimbursed by subdivision (f) of Section 8209 of the Education Code.

(e) The funding described in this section shall be subject to federal usage limitations and federal and state program eligibility requirements.

(f) (1) The Legislature finds and declares that the purpose of paragraph (1) of subdivision (c) and paragraph (1) of subdivision (d), with the exception of the California state preschool program, is to approve an agreement entered into by the Governor and Child Care Providers United - California pursuant to Section 8435.5 of the Education Code.

(2) The provisions of the agreement prepared pursuant to Section 8435.5 of the Education Code and entered into by the Governor and Child Care Providers United - California, dated February 5, 2021, that require the expenditure of funds or legislative action to permit their implementation, are hereby approved by the Legislature for the purposes of subdivision (b) of Section 8435.5 of the Education Code.

(3) The provisions of the agreement approved in paragraph (2) that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If funds for these provisions are not specifically appropriated by the Legislature, either the Governor or Child Care Providers United - California may reopen negotiations on all or part of the agreement.

(g) For purposes of this section, the following definitions apply:

(1) "At-risk children" means children identified as any of the following:

(A) Those receiving child protective services.

(B) Those at risk of abuse, neglect, or exploitation.

(C) Those who are eligible through the Emergency Child Care Bridge Program for Foster Children as established pursuant to Section 11461.6 of the Welfare and Institutions Code.

(D) Those experiencing homelessness as defined in subdivision (ak) of Section 8208 of the Education Code.

(E) Domestic violence survivors.

(2) "Essential worker" has the same meaning as "essential critical infrastructure worker" pursuant to Executive Order No. N-45-20.

(3) "State" means the State Department of Education, the State Department of Social Services, and the Department of Finance.

SEC. 3. Section 263 of Chapter 116 of the Statutes of 2021 is amended to read:

SEC. 263. (a) In response to the COVID-19 pandemic, the Legislature hereby makes available the sum of five hundred seventy-nine million dollars (\$579,000,000) to provide subsidized child care, state preschool, and all licensed child daycare facilities with COVID-19 pandemic-related assistance. Of the five hundred seventy-nine million dollars (\$579,000,000), five hundred nineteen million (\$519,000,000) is allocated from the funds described in subdivision (d) of Provision 5 of Item 6100-149-0890 of the Budget Act of 2021 (Ch. 21, Stats. 2021), as amended by Senate Bill 129 of the 2021–22 Regular Session, and sixty million dollars (\$60,000,000) in federal funds is hereby appropriated to the State Department of Education. The State Department of Education shall transfer five hundred twenty-four million dollars (\$524,000,000) of those funds to the State Department of Social Services to administer the activities described in this section.

(b) Of the five hundred seventy-nine million dollars (\$579,000,000), the Legislature hereby allocates the funding as follows:

(1) Two hundred five million five hundred forty thousand dollars (\$205,540,000) shall be allocated to the State Department of Social Services and the State Department of Education to provide a flat-rate one-time stipend amount of six hundred dollars (\$600) per child enrolled in a subsidized child care or a state preschool program pursuant to subparagraph (A). The state shall provide the flat-rate one-time stipend amount for all child care providers and state preschool programs serving children described in this paragraph based on the number of subsidized children enrolled. Except as otherwise described in this paragraph, this flat-rate one-time stipend shall be issued based on program data for March 2021 enrollment only. For seasonal Migrant Child Care programs that operate pursuant to Article 6 (commencing with Section 8230) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, and that did not operate in March 2021, stipends shall be based on the most recent prior month of operation. A stipend may be used to support subsidized child care providers and state preschool programs with COVID-19 pandemic relief, and, in the case of decreased enrollment or closures, to support child care providers and state preschool programs in remaining open or reopening.

(A) The flat-rate one-time stipend shall be payable to subsidized child care providers and state preschool programs operating or serving programs pursuant to Article 3 (commencing with Section 8220) of, Article 6 (commencing with Section 8230) of, Article 7 (commencing with Section 8235), Article 8 (commencing with Section 8240) of, Article 8.5 (commencing with Section 8245) of, Article 9 (commencing with Section 8250) of, or Article 15.5 (commencing with Section 8350) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, or Article 6 (commencing with Section 11461.6) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as those provisions read on February 3, 2021.

(B) In addition to the flat-rate one-time stipend amount of six hundred dollars (\$600) per child enrolled, the Superintendent of Public Instruction and the State Department of Social Services shall provide state preschool programs, county welfare departments, alternative payment and direct contract programs distributing stipends to these providers with a 5 percent administrative fee.

(C) The State Department of Education shall allocate stipends for distribution to the state preschool programs and the State Department of Social Services shall allocate stipends for distributions to child care providers.

(D) The State Department of Education and the State Department of Social Services shall exchange any essential data necessary to issue stipend payments to child care providers.

(E) The State Department of Education and the State Department of Social Services may designate another agency or agencies to distribute these funds to child care providers.

(F) Of the two hundred five million five hundred forty thousand dollars (\$205,540,000), the following shall be allocated for administrative costs related to the implementation of this paragraph and subparagraph (A) of paragraph (2):

(i) One million seven hundred fifty thousand dollars (\$1,750,000) to the State Department of Social Services.

(ii) Two hundred fifty thousand dollars (\$250,000) to the State Department of Education.

(2) (A) One hundred seventy-six million eight hundred sixty thousand dollars (\$176,860,000) shall be allocated to provide a flat-rate one-time stipend to all licensed child daycare facilities in the state, including the temporarily closed facilities named on the "CCP COVID19 Facility Closures" report, who have a child day care facility license on June 25, 2021, subject to review for any facilities with a pending administrative action for license revocation that subsequently results in the permanent closure of the facility. Stipend amounts shall be provided based on the facility type and licensed capacity, as follows:

(i) Three thousand five hundred dollars (\$3,500) per family daycare home.

(ii) Three thousand five hundred dollars (\$3,500) per daycare center with a maximum licensed capacity of 14 children or fewer.

(iii) Four thousand dollars (\$4,000) per daycare center with a maximum licensed capacity of 15 to 24, inclusive, children.

(iv) Five thousand dollars (\$5,000) per daycare center with a maximum licensed capacity of 25 and 60, inclusive, children.

(v) Six thousand five hundred dollars (\$6,500) per day care center with a licensed capacity of more than 60 children.

(B) Stipends shall be used to support COVID-19 pandemic-related relief, including, but not limited to, support for decreased enrollment, increased costs associated with distance learning, increased costs due to cleaning and sanitization, and other activities necessary to maintain or resume the operation of programs, including for fixed costs and increased operating expenses due to the COVID-19 pandemic. The intent and expectation is that licensees share a portion of the stipends directly with their staff in the form of bonuses or incentive pay.

(C) The State Department of Social Services shall distribute stipends to licensed child day care facilities.

(D) The State Department of Social Services may designate another agency or agencies to distribute these funds to licensed child day care facilities.

(3) Sixty million dollars (\$60,000,000) in one-time funding shall be allocated to reimburse child care and preschool contractors for family fees that are waived pursuant to subparagraph (A).

(A) Notwithstanding any other law, from July 1, 2021, to June 30, 2022, inclusive, family fees are waived for all families receiving subsidized child care services from child care providers and state preschool programs administered by the State Department of Social Services and the State Department of Education pursuant to Article 3 (commencing with Section 8220) of, Article 6 (commencing with Section 8230) of, Article 7 (commencing with Section 8235) of, Article 8 (commencing with Section 8240) of, Article 8.5 (commencing with Section 8245) of, Article 9 (commencing with Section 8250) of, or Article

15.5 (commencing with Section 8350) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, or Article 6 (commencing with Section 11461.6) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as those provisions read on February 3, 2021.

(B) During any period in which family fees are waived, contractors shall reimburse the subsidized child care providers for the full amount of the certificate or voucher without deducting family fees.

(C) The State Department of Social Services, in consultation with the State Department of Education, shall submit a Child Care and Development Fund (CCDF) state plan amendment to include family fee waivers and reimbursement for waived family fees, as described in subparagraphs (A) and (B), to the federal Administration for Children and Families (ACF) for approval pursuant to the federal guidance provided in Information Memorandum CCDF-ACF-IM-2021-01 on CCDF discretionary funds appropriated in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act (P.L. 116-260).

(4) (A) Thirty-one million dollars (\$31,000,000) shall be allocated to provide a state-subsidized child care provider operating or serving programs funded by a county, alternative payment program, or a family child care home education network pursuant to Article 3 (commencing with Section 8220) of, Article 6 (commencing with Section 8230) of, Article 8.5 (commencing with Section 8245) of, or Article 15.5 (commencing with Section 8350) of, and Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as those provisions read on February 3, 2021, up to 16 additional paid nonoperational days between July 1, 2021, and June 30, 2022, inclusive, if the provider is closed due to COVID-19 related reasons.

(B) State funding specified in subdivision (c) shall be allocated to provide a state-subsidized child care provider serving children through the Emergency Child Care Bridge Program for Foster Children pursuant to Article 6 (commencing with Section 11461.6) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, with up to 16 paid nonoperational days between July 1, 2021, and June 30, 2022, inclusive, if the provider is closed due to COVID-19 related reasons.

(C) An alternative payment program, a migrant alternative payment program, a family child care home education network, and a county welfare department administering a subsidized child care program pursuant to subparagraph (A) or (B) shall track the usage of paid nonoperational days and associated costs due to the COVID-19 pandemic emergency and short-term child care to eligible children and report monthly on usage to the State Department of Social Services and the State Department of Education. The use of nonoperational days and associated costs reported to the State shall be used to determine reimbursements for nonoperational days as described in this subdivision.

(D) The State Department of Social Services and State Department of Education shall issue guidance to family child care home education network programs operating pursuant to Article 8.5 (commencing with Section 8245) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as those provisions read on February 3, 2021, that directs family child care home education network programs to use the additional 16 nonoperational days for COVID-19 related closures not reimbursed by paragraph (6) of subdivision (b).

(5) (A) (i) Seventy million dollars (\$70,000,000) shall be allocated to provide support, as described in subparagraph (B), through June 30, 2022, to alternative payment programs, including migrant alternative payment programs, and to state-subsidized child care providers, including daycare centers, family daycare homes, and license-exempt providers, that serve children through an alternative payment program pursuant to Article 3 (commencing with Section 8220), migrant child care and development programs pursuant to Article 6 (commencing with Section 8230), the California state preschool program pursuant to Article 7 (commencing with Section 8235), a general child care and development program pursuant to Article 8 (commencing with Section 8240), a family child care home education network pursuant to Article 8.5 (commencing with Section 8245), child care and development services for children with special needs pursuant to Article 9 (commencing with Section 8250), or a CalWORKs Stage 1, Stage 2, or Stage 3 program, pursuant to Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as those provisions read on February 3, 2021.

(ii) State funding specified in subdivision (c) shall be allocated to provide support, as described in subparagraph (B), through June 30, 2022, to counties and alternative payment programs, and to state-subsidized child care providers, including daycare centers, family daycare homes, and license-exempt providers, that serve children through the Emergency Child Care Bridge Program for Foster Children pursuant to Article 6 (commencing with Section 11461.6) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(B) Notwithstanding subdivision (d) of Section 8221.5 of the Education Code, as it read on February 3, 2021, reimbursement for child care providers, including license-exempt providers, shall be based on families' certified need, as follows:

(i) Providers shall be reimbursed based on the maximum authorized hours of care, regardless of attendance.

(ii) For families certified for a variable schedule, providers shall be reimbursed based on the maximum authorized hours of care.

(iii) For license-exempt providers that provide part-time services, providers shall be reimbursed based on the maximum authorized hours of care.

(6) (A) Contracting agencies operating a migrant child care and development program pursuant to Article 6 (commencing with Section 8230), a California state preschool program pursuant to Article 7 (commencing with Section 8235), a general child care and development program pursuant to Article 8 (commencing with Section 8240), a child care and development services for children with special needs program pursuant to Article 9 (commencing with Section 8250), or a family child care home education network program pursuant to Article 8.5 (commencing with Section 8245) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, as those provisions read on February 3, 2021, shall be reimbursed according to subparagraph (B), if they meet either of the following requirements:

(i) The program is open and operating in accordance with their approved program calendar and remains open and offering services through the program year.

(ii) The program operated by the contracting agency is closed by local or state public health order or guidance due to the COVID-19 pandemic.

(B) Reimbursement pursuant to subparagraph (A) shall be 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less, pursuant to guidance released by the Superintendent of Public Instruction and the State Department of Social Services for their respective programs.

(C) A child care or preschool program specified in subparagraph (A) that is physically closed as described in clause (ii) of subparagraph (A) due to the COVID-19 pandemic, but funded to be operational, shall provide distance learning services, as specified by the Superintendent of Public Instruction and the State Department of Social Services for their respective programs. A contractor specified in subparagraph (A) shall submit a distance learning plan to the department overseeing their contract pursuant to guidance from the applicable department.

(7) One-time funding of twenty-five million dollars (\$25,000,000) shall be allocated to the existing Child Care Initiative Project (CCIP), which may be used to address child care deserts, including, but not limited to, where infant and toddler care has the greatest unmet need, and to support providers who have closed during the pandemic in reopening. Funding allocated pursuant to this paragraph shall be liquidated by September 30, 2023.

(8) One-time funding of ten million six hundred thousand dollars (\$10,600,000) shall be allocated to expand the California Inclusion and Behavior Consultation (CIBC) project to support the expertise, best practices, and well-being of child care providers in order to promote the health, safety, and well-being of the children and families they serve who are impacted by COVID-19. Funding allocated pursuant to this paragraph shall be liquidated by September 30, 2023.

(c) Of the amount appropriated in Item 5180-101-0001 of the Budget Act of 2021, six million dollars (\$6,000,000) is allocated for the purposes described in subparagraph (B) of paragraph (4) of subdivision (b), and clause (i) of subparagraph (A) of paragraph (5) of subdivision (b).

(d) Notwithstanding subdivision (b) of Section 8221.5 of the Education Code, as it read on February 3, 2021, if a child care provider attempts to collect a signature on the monthly attendance record or invoice and the parent or guardian is unable to sign due to the COVID-19 pandemic, the child care provider may, for monthly attendance records or invoices from July 1, 2021, through June 30, 2022, inclusive, or from July 1, 2021, through the end of the state of emergency declared by the Governor on March 4, 2020, in response to the COVID-19 pandemic, whichever period is shorter, submit an attendance record or invoice without the parent or guardian signature, subject to guidance issued by the applicable department.

(e) The funding described in this section shall be subject to federal usage limitations and federal and state program eligibility requirements.

(f) (1) The Legislature hereby approves the agreement, dated April 20, 2021, entered into by the Governor and Child Care Providers United – California, in its sole capacity as the certified provider organization representing family child care providers, as defined in paragraph (1) of subdivision (b) of Section 8431 of the Education Code. This paragraph shall be limited to the terms specified in the agreement and shall not be interpreted to expand upon or change the agreement.

(2) The provisions of the agreement prepared pursuant to Section 8435.5 of the Education Code, as it read on February 3, 2021, and entered into by the Governor and Child Care Providers United - California, dated April 20, 2021, that require the expenditure of funds or legislative action to permit their implementation, are hereby approved by the Legislature for the purposes of subdivision (b) of Section 8435.5 of the Education Code, as it read on February 3, 2021.

(g) (1) Contracts or grants awarded pursuant to this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code. Contracts or grants awarded pursuant to this section shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(2) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services and the State Department of Education may implement, interpret, or make specific this section by means of all-county letters, bulletins, or similar written instructions from either department until regulations are adopted. These all-county letters or similar written instructions shall have the same force and effect as regulations.

(h) (1) Notwithstanding any other law, upon the request of the State Department of Education or the State Department of Social Services, the Department of Finance may authorize the transfer of expenditure authority between the allocations set forth in this section.

(2) The aggregate amount of allocation increases provided under this subdivision shall not exceed the aggregate amount of allocation decreases.

(i) For purposes of this section, "state" means the State Department of Education, the State Department of Social Services, and the Department of Finance, unless otherwise specified.

SEC. 4. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and Section 33308.5 of the Welfare and Institutions Code, until regulations are filed with the Secretary of State, the State Department of Education and the State Department of Social Services, shall implement subdivision (c) of Section 8242 of the Education Code and paragraph (1) of subdivision (c) of Section 10280 of the Welfare and Institutions Code, respectively, through management bulletins or similar letters of instruction on or before December 31, 2021.

(b) Notwithstanding any other law, including Sections 8244 and 8245 of the Education Code and Sections 10281.5 and 10283 of the Welfare and Institutions Code, the Department of Education and the State Department of Social Services shall examine the time base and special criteria adjustment factors that impact center-based contractors reimbursed pursuant to subparagraph (A) of paragraph (1) of subdivision (c) of Section 8242 of the Education Code or paragraph (1) of subdivision (c) of Section 10280 of the Welfare and Institutions Code as of January 1, 2022. If the departments determine that a change is needed to the time base or special criteria adjustment factors, the change in adjustment factors shall not be authorized prior to 30 days after the Director of Social Services, with the concurrence of the Superintendent of Public Instruction, notifies the Joint Legislative Budget Committee, in writing, of the purpose of the change in adjustment factors and the justification for the change. The Chairperson of the Joint Legislative Budget Committee, or the chairperson's designee, may shorten or waive that 30-day period by written notification to the Director of Social Services and the Superintendent of Public Instruction. The Department of Education and the State Department of Social Services shall implement the adjustment factors pursuant to subdivision (a).

(c) The departments shall initiate a rulemaking action on or before December 31, 2023.

SEC. 5. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.