

An act to repeal Section 61 of Chapter 110 of the Statutes of 2020, relating to childcare, and making an appropriation therefor, to take effect immediately, bill related to the budget.

SECURED
COPY



210880464924BILL

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

SECTION 1. Section 61 of Chapter 110 of the Statutes of 2020 is repealed.

SEC. 61. Section 112 of Chapter 24 of the Statutes of 2020 is amended to read:

Sec. 112. (a) It is the intent of the Legislature to prepare for the effective use of childcare funds available from the federal government during the COVID-19 pandemic and recovery period in order to support the essential workforce through necessary, high-quality childcare, support healthy child development during this historic time, and ensure the stability of California's childcare system.

(b) Contingent on the receipt of federal funds that may be used for these purposes during the 2020–21 fiscal year, the State Department of Education shall prioritize funding in the following order, over the total duration of time allowable for expenditure under federal law, or, if shorter, until an applicable date specified below:

(1) Up to thirty million dollars (\$30,000,000) for reimbursing childcare providers for family fees waived pursuant to Section 60 of the act adding this paragraph for families enrolled, but not receiving in-person care, from September 1, 2020, to June 30, 2021, inclusive.

(2) Up to thirty-five million dollars (\$35,000,000) to support alternative payment programs, including migrant alternative payment programs, to reimburse providers for providing short-term childcare to eligible children when a provider is closed pursuant to clause (i) of subparagraph (C) of paragraph (1) of subdivision (d) of Section 60 of the act adding this paragraph.

(3) Up to one hundred million dollars (\$100,000,000) for alternative payment programs to extend childcare services for families eligible for services under Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education Code, with first priority to extend childcare services through June 30, 2021, 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 who accessed care pursuant to Senate Bill 89 (Chapter 2 of the Statutes of 2020), second priority for children who are (A) identified as children at risk of abuse, neglect, or exploitation in a written referral from a legal, medical, or social service agency, or emergency shelter, or (B) identified by a legal, medical, or social services agency, a local educational agency liaison for homeless children and youths designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, a Head Start program, or an emergency or transitional shelter as (i) a recipient of protective services, (ii) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (iii) being homeless, and third priority for other essential workers otherwise eligible for childcare services pursuant to Section 8263 of the Education Code through June 30, 2021, to the extent required or permitted under federal law.

(4) Up to thirty million dollars (\$30,000,000) to contractors for California state preschool programs pursuant to Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code and contractors for general childcare and development programs pursuant to Article 8 (commencing with Section 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code to increase capacity for up to two years. Priority for funding pursuant to this paragraph shall be as follows:



(A) First priority shall go to existing general childcare and development program contractors to expand new childcare services for children from 0 to 3 years of age, inclusive.

(B) Second priority shall go to existing California state preschool program contractors to expand new capacity for full-day programs, pursuant to Section 8239 of the Education Code.

(C) Third priority shall go to new or existing contractors for general childcare and development programs or California state preschool programs.

(5) (A) Up to fifteen million dollars (\$15,000,000) in stipends to assist licensed childcare providers with costs to reopen childcare facilities closed due to the COVID-19 pandemic, and to supplement unfunded costs caused by low attendance or temporary closures due to the COVID-19 pandemic. First priority for these stipends shall be given to providers whose total child enrollment is at least 50-percent state-subsidized.

(B) Stipends shall go to licensed family childcare home providers and licensed center-based childcare programs that closed on or after March 15, 2020, and remain closed through July 1, 2020, and that served at least three children enrolled in childcare services under CalWORKs or through an alternative payment program between January 1, 2019, and March 1, 2020.

(C) Alternative payment programs shall provide up to five thousand dollars (\$5,000) per licensed family childcare home contractor and up to fifteen thousand dollars (\$15,000) per licensed center-based childcare agency to address debts incurred during the childcare and development facility's closure after the 30 days of funding provided under Senate Bill 89 (Chapter 2 of the Statutes of 2020). Allowable costs shall be determined by the department, consistent with federal law and reimbursable costs guidance, to address debts incurred between March 15, 2020, and July 1, 2020, that may be preventing a licensed family childcare home or licensed center-based childcare agency from reopening.

(D) For each stipend provided pursuant to this paragraph, the alternative payment program shall disburse one-half of the awarded funds up front. A stipend recipient shall remain open and willing to serve families eligible for childcare services under CalWORKs or through an alternative payment program for at least three months after reopening. At the end of the three-month period, the remainder of stipend shall be disbursed.

(E) A stipend provided pursuant to this paragraph may cover up to 100 percent of operating costs during the childcare and development facility's closure period, up to the applicable amount stated in subparagraph (C), on the condition that the childcare program meets all federal requirements, including, but not limited to, staff compensation. A licensed family childcare home provider or licensed center-based childcare program shall not have received family fees or state or federal reimbursement for services during the childcare and development facility's closure period. To the extent funds received under Senate Bill 89 (Chapter 2 of the Statutes of 2020) were received by a provider during a closure period, the alternative payment program shall subtract the amount of funds received under Senate Bill 89 (Chapter 2 of the Statutes of 2020) from the facility's closure period operating costs, for purposes of calculating the stipend amount.

(6) (A) Up to ninety million dollars (\$90,000,000) to the department for subsidized childcare provider stipends to assist all subsidized childcare providers operating programs 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 with increased cost-of-care expenses during the COVID-19 pandemic period.

(B) The Superintendent of Public Instruction shall, on or before September 1, 2020, develop a methodology for augmenting each individual contractor operating programs identified in subparagraph (A) with a stipend, in accordance with both of the following:

(i) For the direct-contract subsidized childcare programs pursuant to 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, and Article 9 (commencing with Section 8250) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, the proposed stipend methodology shall be based on the number of children served and the proportion to the provider's reimbursement from the state and the applicable regional market rate.

(ii) For voucher-based subsidized childcare programs pursuant to Article 3 (commencing with Section 8220), Article 6 (commencing with Section 8230), and Article 15.5 (commencing with Section 8350) of, Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, the proposed methodology shall be based on the number of children served and the regional average cost of care. The methodology developed pursuant to this clause shall be developed in consultation and collaboration with the State Department of Social Services.

(C) The Superintendent of Public Instruction shall present the methodology developed pursuant to subparagraph (B) and the proposed schedule of augmentations to the Department of Finance and the Joint Legislative Budget Committee for review and approval before any augmentations are made.

(D) Once the Department of Finance and the Joint Legislative Budget Committee have approved the methodology and the proposed schedule of augmentations, a budget revision shall be submitted by the State Department of Education to the Controller to move the appropriate funding amounts for augmentation to CalWORKs Stage 1, pursuant to Section 8351 of the Education Code, to the State Department of Social Services.

(e) Notwithstanding Section 26.00 of the Budget Act of 2020, the State Department of Education may transfer program expenditure authority provided in paragraph (6) of subdivision (b) between schedules to accurately reflect expenditures in the program schedules, upon the approval of the Department of Finance. The Department of Finance may, at its discretion, approve such a transfer of program expenditure authority to the extent total allocations do not exceed the total amount specified in paragraph (6) of subdivision (b). Upon approval from the Department of Finance, the Superintendent of Public Instruction shall notify the chairs of the relevant policy committees and budget subcommittees of the Legislature of its intent to transfer program expenditure authority between programs.

(d) For purposes of this section, "essential worker" has the same meaning as "essential critical infrastructure worker" pursuant to Executive Order No. N-45-20.

SEC. 2. (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 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 four hundred two million dollars (\$402,000,000) in CRRSA funding to provide subsidized childcare and preschool providers with COVID-19 pandemic-related assistance.

(c) Of the four hundred two million dollars (\$402,000,000) in CRRSA funding, the Legislature hereby allocates the funding as follows:

(1) Two hundred forty-four million dollars (\$244,000,000) 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 forty-four million dollars (\$244,000,000), 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) Seventy-six million dollars (\$76,000,000) in CRRSA funding 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 CRRSA funding 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 and who are eligible for services under Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education 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 CRRSA funding shall be allocated to the State Department of Education for administrative costs.

(5) Two hundred fifty thousand dollars (\$250,000) in CRRSA funding 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 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 these provisions read on February 3, 2021. This guidance shall direct family child care 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. 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.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Childcare: financing.

The Child Care and Development Services Act establishes a system of childcare and development services for children up to 13 years of age. Commencing July 1, 2021, existing law transfers specified childcare programs, responsibilities, services, and systems from the State Department of Education and the Superintendent of Public Instruction to the State Department of Social Services.

Existing law expresses the intent of the Legislature to prepare for the effective use of childcare funds available from the federal government during the COVID-19 pandemic and recovery period in order to support the essential workforce through necessary, high-quality childcare, support healthy child development during this historic time, and ensure the stability of California's childcare system. Contingent on the receipt of federal funds that may be used for these purposes during the 2020–21 fiscal year, existing law requires the State Department of Education to priorities childcare-related funding, as prescribed, including up to \$35,000,000 to support alternative payment programs, including migrant alternative payment programs, to reimburse providers for providing short-term childcare to eligible children when a provider is closed. Existing law authorizes the State Department of Education to transfer specified program expenditure authority between schedules to accurately reflect expenditures in the program schedules, upon the approval of the Department of Finance, and authorizes the Department of Finance, at its discretion, to approve a transfer of program expenditure authority to the extent total allocations do not exceed a specified total amount. Upon approval from the Department of Finance, existing law requires the Superintendent of Public Instruction to notify the chairs of the relevant policy committees and budget subcommittees of the Legislature of the Superintendent of Public Instruction's intent to transfer program expenditure authority between programs.

This bill would repeal these provisions, would instead appropriate the sum of \$402,000,000 in specified federal funding to provide subsidized childcare and preschool providers with COVID-19 pandemic-related assistance, and would allocate the money, as specified, including allocating \$244,000,000 to provide a flat-rate one-time stipend amount of \$525 per child enrolled in a subsidized childcare or a state preschool program, as prescribed. Among other allocations, the bill would allocate \$80,000,000 to provide additional emergency vouchers for specified children, including the children of essential workers, through June 30, 2022. The bill would make a state-subsidized childcare provider operating or serving alternative payment programs eligible for an additional 16 paid nonoperational days when the provider is closed due to the COVID-19 pandemic emergency. The bill would require specified entities, including alternative payments programs, to track the usage of paid nonoperational days and associated costs due to the COVID-19 pandemic emergency and short-term childcare to eligible children, and to report monthly on usage to the State Department of Education and the State



Department of Social Services. The bill would require the State Department of Education to issue guidance related to the additional 16 nonoperational days for COVID-19-related closures to family child care home education network programs. The bill would make related findings and declarations.

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. State-mandated local program: no.

SECURED
COPY

