

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 26, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2881

Introduced by Assembly Member Mullin

February 24, 2006

An act to amend Sections 8208, 8212, 8235, 8236, 8237, 8263, and 8278 of, to amend the heading of Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of, and to add Article 7.1 (commencing with Section 8237.1) to Chapter 2 of Part 6 of, the Education Code, relating to early education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2881, as amended, Mullin. State preschool programs.

The Child Care and Development Services Act provides a comprehensive, coordinated, and cost-effective system of child care and development services for children to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. Existing law requires the Superintendent of Public Instruction to administer all state preschool programs, as specified, for prekindergarten-age children, in accordance with specified funding priorities, and to contract with public or private entities or agencies, as specified, to operate a state preschool program. Existing law specifies that these programs shall include, but not be limited to, part-day and preschool appropriate programs for prekindergarten children 3 to 5 years of age in educational development, health services, social services, nutritional

services, parent education and parent participation, evaluation, and staff development. Existing law defines “state preschool services” as part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

This bill, instead, would define “preschool services,” as part- or full-day educational programs for prekindergarten-aged children, as described above. The bill would establish separate provisions requiring the Superintendent to administer part-day and full-day preschool programs, respectively. The bill would prescribe requirements, as specified, for part-day and full-day preschool programs.

This bill would require that full-day preschool programs include center-based programs, would require the Superintendent to establish a family fee schedule, and would establish related restrictions. The bill would require contracts issued to contracting agencies in the ~~2005–06~~ ~~2006–07~~ 2007–08 fiscal year for specified types of full-day preschool programs to be consolidated commencing with the ~~2006–07~~ 2007–08 fiscal year. The bill would make its provisions relating to full-day preschool programs operative ~~on~~ no sooner than July 1, ~~2006~~ 2007.

This bill would specify that it does not impose any requirements on part-day or full-day preschool programs that are in addition to the contractual requirements for which these programs are already being reimbursed by the ~~department~~ *State Department of Education*, and would provide that certain requirements shall not result in any increase in reimbursement rates for those programs.

Existing law authorizes the use of child care and development services funds for child care referral programs ~~which~~ *that* may be operated by public or private nonprofit entities. Existing law requires a referral program, within 2 business days of receiving notice, to remove a licensed child day care facility with a revocation or a temporary suspension order, or that is on probation, from its referral list, and to notify entities operating specified programs of the revocation, suspension order, or probation.

This bill would add entities operating family child care home education networks to that notification requirement. The bill would require an entity operating one of the specified programs, upon notification of a revocation or a temporary suspension order, to terminate payment to the licensed child day care facility within 2 business days. The bill would also require that entity to notify the parents and the licensed child day care facility in writing within 2

business days that payment has been terminated and the reason for the termination. The bill would require an entity operating one of the specified programs, upon notification of a probation, to provide written notice of the probation, as specified, to the parents utilizing the provider that has been placed on probation.

This bill would also make technical, nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There is increasing support for the state early education
4 and preschool programs serving low-income families that prepare
5 children for success in the primary grades.

6 (b) The Superintendent of Public Instruction has developed
7 and disseminated preschool learning and development guidelines
8 and is currently developing learning standards and supporting
9 preschool learning networks.

10 (c) There is a need to clarify the goals of existing state
11 preschool programs and general child care preschool centers in
12 order to establish a more clear articulation with elementary and
13 secondary educational goals, curriculum, and performance.

14 (d) It is the intent of the Legislature to encourage the
15 development of part- and full-day preschools in areas where
16 public primary schools are struggling with academic
17 performance.

18 (e) It is the intent of the Legislature to assure that the
19 allocation and reallocation of funds for child care and
20 ~~development~~ *development* services occur on a timely basis to
21 prevent eligible families from losing funding.

22 SEC. 2. Section 8208 of the Education Code is amended to
23 read:

24 8208. As used in this chapter:

25 (a) "Alternative payments" includes payments that are made
26 by one child care agency to another agency or child care provider
27 for the provision of child care and development services, and

1 payments that are made by an agency to a parent for the parent's
2 purchase of child care and development services.

3 (b) "Alternative payment program" means a local government
4 agency or nonprofit organization that has contracted with the
5 department pursuant to Section 8220.2 to provide alternative
6 payments and to provide support services to parents and
7 providers.

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

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

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

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

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

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

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

- 6 (1) Campus child care and development.
- 7 (2) General child care and development.
- 8 (3) Migrant child care and development.
- 9 (4) Child care provided by the California School Age Families
10 Education Program (Article 7.1 (commencing with Section
11 54740) of Chapter 9 of Part 29).
- 12 (5) Part-day preschools.
- 13 (6) Full-day preschools.
- 14 (7) Resource and referral.
- 15 (8) Child care and development services for children with
16 special needs.
- 17 (9) Family child care home education network.
- 18 (10) Alternative payment.
- 19 (11) Child abuse protection and prevention services.
- 20 (12) Schoolage community child care.

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

28 (k) “Children at risk of abuse, neglect, or exploitation” means
29 children who are so identified in a written referral from a legal,
30 medical, or social services agency, or emergency shelter.

31 (l) “Children with exceptional needs” means either of the
32 following:

- 33 (1) Infants and toddlers under three years of age who have
34 been determined to be eligible for early intervention services
35 pursuant to the California Early Intervention Services Act (Title
36 14 (commencing with Section 95000) of the Government Code)
37 and its implementing regulations. These children include an
38 infant or toddler with a developmental delay or established risk
39 condition, or who is at high risk of having a substantial
40 developmental disability, as defined in subdivision (a) of Section

1 95014 of the Government Code. These children shall have active
2 individualized family service plans, shall be receiving early
3 intervention services, and shall be children who require the
4 special attention of adults in a child care setting.

5 (2) Children ages 3 to 21 years, inclusive, who have been
6 determined to be eligible for special education and related
7 services by an individualized education program team according
8 to the special education requirements contained in Part 30
9 (commencing with Section 56000), and who meet eligibility
10 criteria described in Section 56026 and Sections 56333 to 56338,
11 inclusive, and Sections 3030 and 3031 of Title 5 of the California
12 Code of Regulations. These children shall have an active
13 individualized education program, shall be receiving early
14 intervention services or appropriate special education and related
15 services, and shall be children who require the special attention
16 of adults in a child care setting. These children include children
17 with mental retardation, hearing impairments (including
18 deafness), speech or language impairments, visual impairments
19 (including blindness), serious emotional disturbance (also
20 referred to as emotional disturbance), orthopedic impairments,
21 autism, traumatic brain injury, other health impairments, or
22 specific learning disabilities, who need special education and
23 related services consistent with paragraph (A) of subsection (3)
24 of Section 1401 of Title 20 of the United States Code.

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

29 (n) “Cost” includes, but is not limited to, expenditures that are
30 related to the operation of child care and development programs.
31 “Cost” may include a reasonable amount for state and local
32 contributions to employee benefits, including approved
33 retirement programs, agency administration, and any other
34 reasonable program operational costs. “Cost” may also include
35 amounts for licensable facilities in the community served by the
36 program, including lease payments or depreciation,
37 downpayments, and payments of principal and interest on loans
38 incurred to acquire, rehabilitate, or construct licensable facilities,
39 but these costs shall not exceed fair market rents existing in the
40 community in which the facility is located. “Reasonable and

1 necessary costs” are costs that, in nature and amount, do not
2 exceed what an ordinary prudent person would incur in the
3 conduct of a competitive business.

4 (o) “Elementary school,” as contained in Section 425 of Title
5 20 of the United States Code (the National Defense Education
6 Act of 1958, Public Law 85-864, as amended), includes early
7 childhood education programs and all child development
8 programs, for the purpose of the cancellation provisions of loans
9 to students in institutions of higher learning.

10 (p) “Family child care home education network” means an
11 entity organized under law that contracts with the department
12 pursuant to Section 8245 to make payments to licensed family
13 child care home providers and to provide educational and support
14 services to those providers and to children and families eligible
15 for state-subsidized child care and development services. A
16 family child care home education network may also be referred
17 to as a family child care home system.

18 (q) “Health services” include, but are not limited to, all of the
19 following:

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

22 (2) Health screening and health treatment, including a full
23 range of immunization recorded on the appropriate state
24 immunization form to the extent provided by the Medi-Cal Act
25 (Chapter 7 (commencing with Section 14000) of Part 3 of
26 Division 9 of the Welfare and Institutions Code) and the Child
27 Health and Disability Prevention Program (Article 6
28 (commencing with Section 124025) of Chapter 3 of Part 2 of
29 Division 106 of the Health and Safety Code), but only to the
30 extent that ongoing care cannot be obtained utilizing community
31 resources.

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

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

36 (r) “Higher educational institutions” means the Regents of the
37 University of California, the Trustees of the California State
38 University, the Board of Governors of the California Community
39 Colleges, and the governing bodies of any accredited private
40 nonprofit institution of postsecondary education.

1 (s) “Intergenerational staff” means persons of various
2 generations.

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

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

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

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

15 (v) “Program director” means a person who, pursuant to
16 Sections 8244 and 8360.1, is qualified to serve as a program
17 director.

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

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

28 (y) “Severely disabled children” are children with exceptional
29 needs from birth to 21 years of age, inclusive, who require
30 intensive instruction and training in programs serving pupils with
31 the following profound disabilities: autism, blindness, deafness,
32 severe orthopedic impairments, serious emotional disturbances,
33 or severe mental retardation. “Severely disabled children” also
34 include those individuals who would have been eligible for
35 enrollment in a developmental center for handicapped pupils
36 under Chapter 6 (commencing with Section 56800) of Part 30 as
37 it read on January 1, 1980.

38 (z) “Short-term respite child care” means child care service to
39 assist families whose children have been identified through
40 written referral from a legal, medical, or social services agency,

1 or emergency shelter as being neglected, abused, exploited, or
2 homeless, or at risk of being neglected, abused, exploited, or
3 homeless. Child care is provided for less than 24 hours per day in
4 child care centers, treatment centers for abusive parents, family
5 child care homes, or in the home of the child.

6 (aa) (1) "Site supervisor" means a person who, regardless of
7 his or her title, has operational program responsibility for a child
8 care and development program at a single site. A site supervisor
9 shall hold a permit issued by the Commission on Teacher
10 Credentialing that authorizes supervision of a child care and
11 development program operating in a single site. The
12 Superintendent may waive the requirements of this subdivision if
13 he or she determines that the existence of compelling need is
14 appropriately documented.

15 (2) With respect to preschool programs, a site supervisor may
16 qualify under any of the provisions in this subdivision, or may
17 qualify by holding an administrative credential or an
18 administrative services credential. A person who meets the
19 qualifications of a site supervisor under both Section 8244 and
20 subdivision (e) of Section 8360.1 is also qualified under this
21 subdivision.

22 (ab) "Standard reimbursement rate" means that rate
23 established by the Superintendent pursuant to Section 8265.

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

27 (ad) "Preschool services" means part-day educational
28 programs for low-income or otherwise disadvantaged
29 prekindergarten children.

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

38 (af) "Teacher" means a person with the appropriate permit
39 issued by the Commission on Teacher Credentialing who
40 provides program supervision and instruction that includes

1 supervision of a number of aides, volunteers, and groups of
2 children.

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

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

- 10 (1) To undertake training in preparation for a job.
- 11 (2) To undertake or retain a job.
- 12 (3) To undertake other activities that are essential to
13 maintaining or improving the social and economic function of the
14 family, are beneficial to the community, or are required because
15 of health problems in the family.

16 SEC. 3. Section 8212 of the Education Code is amended to
17 read:

18 8212. For purposes of this article, child care resource and
19 referral programs, established to serve a defined geographic area,
20 shall provide the following services:

21 (a) Identification of the full range of existing child care
22 services through information provided by all relevant public and
23 private agencies in the areas of service, and the development of a
24 resource file of those services which shall be maintained and
25 updated at least quarterly. These services shall include, but not be
26 limited to, family day care homes, public and private day care
27 programs, full-time and part-time programs, and infant,
28 preschool, and extended care programs.

29 The resource file shall include, but not be limited to, the
30 following information:

- 31 (1) Type of program.
- 32 (2) Hours of service.
- 33 (3) Ages of children served.
- 34 (4) Fees and eligibility for services.
- 35 (5) Significant program information.

36 (b) (1) Establishment of a referral process which responds to
37 parental need for information and which is provided with full
38 recognition of the confidentiality rights of parents. Resource and
39 referral programs shall make referrals to licensed child day care
40 facilities. Referrals shall be made to unlicensed care facilities

1 only if there is no requirement that the facility be licensed. The
2 referral process shall afford parents maximum access to all
3 referral information. This access shall include, but is not limited
4 to, telephone referrals to be made available for at least 30 hours
5 per week as part of a full week of operation. Every effort shall be
6 made to reach all parents within the defined geographic area,
7 including, but not limited to, any of the following:

8 (A) Toll-free telephone lines.

9 (B) Office space convenient to parents and providers.

10 (C) Referrals in languages which are spoken in the
11 community.

12 Each child care resource and referral program shall publicize
13 its services through all available media sources, agencies, and
14 other appropriate methods.

15 (2) (A) Provision of information to any person who requests a
16 child care referral of his or her right to view the licensing
17 information of a licensed child day care facility required to be
18 maintained at the facility pursuant to Section 1596.859 of the
19 Health and Safety Code and to access any public files pertaining
20 to the facility that are maintained by the State Department of
21 Social Services Community Care Licensing Division.

22 (B) A written or oral advisement in substantially the following
23 form will comply with the requirements of subparagraph (A):

24 “State law requires licensed child day care facilities to make
25 accessible to the public a copy of any licensing report pertaining
26 to the facility that documents a facility visit or a substantiated
27 complaint investigation. In addition, a more complete file
28 regarding a child care licensee may be available at an office of
29 the State Department of Social Services Community Care
30 Licensing Division. You have the right to access any public
31 information in these files.”

32 (c) Maintenance of ongoing documentation of requests for
33 service tabulated through the internal referral process. The
34 following documentation of requests for service shall be
35 maintained by all child care resource and referral programs:

36 (1) Number of calls and contacts to the child care information
37 and referral program or component.

38 (2) Ages of children served.

39 (3) Time category of child care request for each child.

1 (4) Special time category, such as nights, weekends, and swing
2 shift.

3 (5) Reason that the child care is needed.

4 This information shall be maintained in a manner that is easily
5 accessible for dissemination purposes.

6 (d) Provision of technical assistance to existing and potential
7 providers of all types of child care services. This assistance shall
8 include, but not be limited to:

9 (1) Information on all aspects of initiating new child care
10 services including, but not limited to, licensing, zoning, program
11 and budget development, and assistance in finding this
12 information from other sources.

13 (2) Information and resources that help existing child care
14 services providers to maximize their ability to serve the children
15 and parents of their community.

16 (3) Dissemination of information on current public issues
17 affecting the local and state delivery of child care services.

18 (4) Facilitation of communication between existing child care
19 and child-related services providers in the community served.

20 Services prescribed by this section shall be provided in order to
21 maximize parental choice in the selection of child care to
22 facilitate the maintenance and development of child care services
23 and resources.

24 (e) (1) A program operating pursuant to this article shall,
25 within two business days of receiving notice, remove a licensed
26 child day care facility with a revocation or a temporary
27 suspension order, or that is on probation from the program's
28 referral list.

29 (2) A program operating pursuant to this article shall, within
30 two business days of receiving notice, notify all entities,
31 operating a program under Article 3 (commencing with Section
32 8220), Article 8.5 (commencing with Section 8245), and Article
33 15.5 (commencing with Section 8350) in the program's
34 jurisdiction, of a licensed child day care facility with a revocation
35 or a temporary suspension order, or that is on probation.

36 (3) After a program operating pursuant to this article notifies
37 an entity operating a program under Article 3 (commencing with
38 Section 8220), Article 8.5 (commencing with Section 8245), and
39 Article 15.5 (commencing with Section 8350) of a revocation or

1 a temporary suspension order, the entity, within two business
2 days, shall do both of the following concurrently:

3 (A) Terminate payment to the licensed child day care facility.

4 (B) Notify the parents and the licensed child day care facility
5 in writing that payment has been terminated and the reason for
6 the termination.

7 (4) After a program operating pursuant to this article notifies
8 an entity operating a program under Article 3 (commencing with
9 Section 8220), Article 8.5 (commencing with Section 8245), or
10 Article 15.5 (commencing with Section 8350) of a probation, that
11 entity shall provide written notice to the parents utilizing the
12 provider that the provider has been placed on probation and that
13 the parents have an option to locate alternate child day care
14 arrangements or shall remain with the provider without risk of
15 subsidy payments to the provider being terminated. A program
16 operating pursuant to this section is urged, to the extent feasible,
17 to provide the written notice required by this paragraph in the
18 primary language of the parent.

19 SEC. 4. The heading of Article 7 (commencing with Section
20 8235) of Chapter 2 of Part 6 of ~~Division 1 of Title 1 of the~~
21 Education Code is amended to read:

22

23 Article 7. Part-day Preschools

24

25 SEC. 5. Section 8235 of the Education Code is amended to
26 read:

27 8235. (a) The Superintendent shall administer all part-day
28 preschool programs in accordance with the funding priorities set
29 forth in Section 8236. Those programs shall include, but not be
30 limited to, part-day and preschool appropriate programs for
31 prekindergarten children three to five years of age. Preschool
32 programs for which federal reimbursement is not available shall
33 be funded as prescribed by the Legislature in the Budget Act, and
34 unless otherwise specified by the Legislature, shall not utilize
35 federal funds made available through Title XX of the Social
36 Security Act (42 U.S.C. Sec. 1397).

37 (b) Federal Head Start funds used to provide services to
38 families receiving part-day preschool services shall be deemed
39 nonrestricted funds.

40 (e)–

1 (c) Part-day preschool programs shall include, but not be
2 limited to, all of the following:

3 (1) Age and developmentally appropriate activities for
4 children.

5 (2) Developmental profiles, pursuant to the desired results
6 system of the department as described on the Internet Web site of
7 the department, for children enrolled in the program.

8 (3) Staff training and career ladder opportunities,
9 documentation of which shall be provided to the department.

10 (4) Supervision to ensure the safety of children.

11 (5) Nutrition.

12 (6) Parent education and parent involvement.

13 (7) Social and health services that include, but are not limited
14 to, identification of child and family needs, health screenings for
15 children, and referral to appropriate agencies as needed.

16 (8) Articulation with public school kindergarten.

17 (9) Transition activities for preschool children entering
18 kindergarten.

19 (10) Accountability measures.

20 (d) Priority for receiving ~~state~~ *part-day* preschool services
21 shall be given to low-income families who meet the eligibility
22 standards as established by the Superintendent, in accordance
23 with the priorities set forth in Section 8236.

24 (e) Reimbursement for ~~state~~ *part-day* preschool programs shall
25 be on a per capita basis, as determined by the Superintendent.

26 (f) Any agency described in subdivision (c) of Section 8208 as
27 an “applicant or contracting agency” is eligible to contract to
28 operate a ~~state~~ *part-day* preschool program.

29 (g) Paragraphs (1) to (10), inclusive, of subdivision (c) do not
30 impose any requirements on part-day preschool programs that are
31 in addition to the contractual requirements for which these
32 preschool programs are already being reimbursed by the
33 department, and the requirements specified in those paragraphs
34 shall not result in any increase in reimbursement rates for those
35 part-day preschool programs.

36 SEC. 6. Section 8236 of the Education Code is amended to
37 read:

38 8236. (a) For purposes of this section, the following
39 definitions apply:

1 (1) “Eligible children” means children who are currently
2 eligible for the part-day preschool program.

3 (2) “Four-year-old children” means those children who will
4 have their fourth birthday on or before December 2 of the fiscal
5 year in which they are enrolled in a part-day preschool program.

6 (3) “Local educational agency” means a school district, a
7 county office of education, a community college district, or a
8 school district on behalf of one or more schools within the school
9 district.

10 ~~(4) “Superintendent” means the Superintendent of Public~~
11 ~~Instruction.~~

12 ~~(5)~~

13 (4) “Three-year-old children” means those children who will
14 have their third birthday on or before December 2 of the fiscal
15 year in which they are enrolled in a part-day preschool program.

16 (b) (1) Each applicant or contracting agency funded pursuant
17 to Section 8235 shall give first priority to neglected or abused
18 children who are recipients of child protective services, or
19 recipients who are at risk of being neglected or abused, upon
20 written referral from a legal, medical, or social services agency.
21 If an agency is unable to enroll a child in this first priority
22 category, the agency shall refer the parent or guardian of the
23 child to local resource and referral services so that services for
24 the child can be located.

25 (2) After children in the first priority category set forth in
26 paragraph (1) are served, each agency funded pursuant to Section
27 8235 shall serve eligible four-year-old children prior to serving
28 eligible three-year-old children. Each agency shall certify to the
29 Superintendent that enrollment priority is being given to eligible
30 four-year-old children.

31 (c) For part-day preschool programs operating with funding
32 that was initially allocated in a prior fiscal year, at least one-half
33 of the children enrolled at a preschool site shall be
34 four-year-olds. Any exception to this requirement shall be
35 approved by the Superintendent. The Superintendent shall inform
36 the Secretary for Education of any exceptions that have been
37 granted.

38 (d) The following provisions apply to the award of any new
39 funding for the expansion of the part-day preschool program that

1 is appropriated by the Legislature for that purpose in any fiscal
2 year:

3 (1) In an application for those expansion funds, an agency
4 shall furnish the Superintendent with an estimate of the number
5 of four-year-old and three-year-old children that it plans to serve
6 in the following fiscal year with those expansion funds. The
7 agency also shall furnish documentation that indicates the basis
8 of those estimates.

9 (2) In awarding contracts for expansion pursuant to this
10 subdivision, the superintendent, after taking into account the
11 geographic criteria established pursuant to Section 8289, and the
12 headquarters preferences and eligibility criteria relating to fiscal
13 or programmatic noncompliance established pursuant to Section
14 8261, shall give priority to applicant agencies that, in expending
15 the expansion funds, will be serving the highest percentage of
16 four-year-old children.

17 (3) (A) Agencies that receive funding for the expansion of a
18 part-day preschool program shall enroll children in the following
19 priority order:

20 (i) Neglected or abused children who are recipients of child
21 protective services, or recipients who are at risk of being
22 neglected or abused, upon written referral from a legal, medical,
23 or social services agency.

24 (ii) Four-year-old children who are eligible for a part-day
25 preschool program.

26 (B) Otherwise, children shall be enrolled based on other
27 statutory and regulatory priorities for a part-day preschool
28 program.

29 (e) This section does not preclude a local educational agency
30 from subcontracting with an appropriate public or private agency
31 to operate a part-day preschool program and to apply for funds
32 made available for the purposes of this section. If a school
33 district chooses not to operate or subcontract for a part-day
34 preschool program, the Superintendent shall work with the
35 county office of education and other eligible agencies to explore
36 possible opportunities in contracting or alternative subcontracting
37 to provide a part-day preschool program.

38 (f) This section does not prevent eligible children who are
39 currently receiving services from continuing to receive those
40 services in future years pursuant to this chapter.

1 SEC. 7. Section 8237 of the Education Code is amended to
2 read:

3 8237. A part-day preschool program applicant or contracting
4 agency has 120 calendar days prior to the first day of the
5 beginning of the new preschool year to certify eligibility and
6 enroll families into their program.

7 SEC. 8. Article 7.1 (commencing with Section 8237.1) is
8 added to Chapter 2 of Part 6 of the Education Code, to read:

9

10 Article 7.1. Full-day Preschools

11

12 8237.1. (a) The Superintendent shall administer all full-day
13 preschool programs. This program shall include full-day,
14 center-based programs for prekindergarten children.

15 (b) (1) Contracts issued to contracting agencies in the
16 ~~2005-06~~ 2006-07 fiscal year for all of the following types of
17 programs shall be consolidated under this article commencing
18 with the ~~2006-07~~ 2007-08 fiscal year:

19 ~~(1)~~

20 (A) Full-day preschool.

21 ~~(2)~~

22 (B) General child care and development contracts for
23 center-based care for prekindergarten children.

24 ~~(3)~~

25 (C) Federal Child Care and Development Fund contracts for
26 center-based care for prekindergarten children.

27 (2) *The consolidation of contracts pursuant to paragraph (1)*
28 *shall be performed in a manner that does not impair the*
29 *performance or obligations of existing contracts.*

30 (c) Full-day preschool programs shall include, but not be
31 limited to, all of the following:

32 (1) Age and developmentally appropriate activities for
33 children.

34 (2) Developmental profiles, pursuant to the desired results
35 system of the department as described on the Internet Web site of
36 the department, for children enrolled in the program.

37 (3) Staff training and career ladder opportunities,
38 documentation of which shall be provided to the department.

39 (4) Supervision to ensure the safety of children.

40 (5) Nutrition.

1 (6) Parent education and parent involvement.

2 (7) Social and health services that include, but are not limited
3 to, identification of child and family needs, health screenings for
4 children, and referral to appropriate agencies as needed.

5 (8) Articulation with public school kindergarten.

6 (9) Transition activities for preschool children entering
7 kindergarten.

8 (10) Accountability measures.

9 (d) Programs operated pursuant to this section may be
10 designed to meet needs identified by parents or guardians which
11 may include, but are not limited to, the following:

12 (1) Weekday care.

13 (2) Weekend care.

14 (3) Night shift care.

15 (4) Worksite care.

16 (5) Temporary emergency care.

17 (6) Child care for ill children.

18 (e) Programs operated under this section shall comply with the
19 requirements of Section 8244.

20 (f) Contractor reimbursement factors applicable to programs
21 funded pursuant to Article 8 (commencing with Section 8240)
22 shall apply to programs funded pursuant to this article.

23 (g) Paragraphs (1) to (10), inclusive, of subdivision (c), do not
24 impose any requirements on full-day preschool programs that are
25 in addition to the contractual requirements for which these
26 preschool programs are already being reimbursed by the
27 department, and the requirements specified in those paragraphs
28 shall not result in any increase in reimbursement rates for those
29 full-day preschool programs.

30 SEC. 9. Section 8263 of the Education Code is amended to
31 read:

32 8263. (a) The Superintendent shall adopt rules and
33 regulations on eligibility, enrollment, and priority of services
34 needed to implement this chapter. In order to be eligible for
35 federal and state subsidized child development services, families
36 shall satisfy both of the following conditions:

37 (1) The family is any of the following:

38 (A) A current aid recipient.

39 (B) Income eligible.

40 (C) Homeless.

1 (D) One whose children are recipients of child protective
2 services, or whose children have been identified as being abused,
3 neglected, or exploited, or at risk of being abused, neglected, or
4 exploited.

5 (2) The family needs the child care service due to either of the
6 following reasons:

7 (A) A child of the family is identified by a legal, medical, or
8 social services agency, or by an emergency shelter because the
9 child is either of the following:

10 (i) A recipient of child protective services.

11 (ii) Neglected, abused, exploited, or at risk of neglect, abuse,
12 or exploitation.

13 (B) The parents are any of the following:

14 (i) Engaged in vocational training leading directly to a
15 recognized trade, paraprofession, or profession.

16 (ii) Employed or seeking employment.

17 (iii) Seeking permanent housing for family stability.

18 (iv) Incapacitated.

19 (b) Except as provided in Article 15.5 (commencing with
20 Section 8350), priority for state and federally subsidized child
21 development services is as follows:

22 (1) (A) First priority shall be given to neglected or abused
23 children who are recipients of child protective services, or
24 children who are at risk of being neglected or abused, upon
25 written referral from a legal, medical, or social services agency.
26 If an agency is unable to enroll a child in the first priority
27 category, the agency shall refer the family to local resource and
28 referral services to locate services for the child.

29 (B) A family who is receiving child care on the basis of a child
30 being at risk of abuse, neglect, or exploitation, as defined in
31 subdivision (k) of Section 8208, is eligible to receive services
32 pursuant to subparagraph (A) for up to three months, unless the
33 family becomes eligible pursuant to subparagraph (C).

34 (C) A family may receive child care services for up to 12
35 months on the basis of a certification by the county child welfare
36 agency that child care services continue to be necessary or, if the
37 child is receiving child protective services during that period of
38 time, and the family requires child care and remains otherwise
39 eligible. This time limit does not apply if the child care referral of
40 the family is recertified by the county child welfare agency.

1 (2) Second priority shall be ~~equally given~~ *given equally* to
2 eligible families, regardless of the number of parents in the
3 home, who are income eligible. Within this priority, families
4 with the lowest gross monthly income in relation to family size,
5 as determined by a schedule adopted by the Superintendent, shall
6 be admitted first. If two or more families are in the same priority
7 in relation to income, the family that has a child with exceptional
8 needs shall be admitted first. If there is no family of the same
9 priority with a child with exceptional needs, the same priority
10 family that has been on the waiting list for the longest time shall
11 be admitted first. For purposes of determining order of
12 admission, the grants of public assistance recipients shall be
13 counted as income.

14 (3) The Superintendent shall set criteria for and may grant
15 specific waivers of the priorities established in this subdivision
16 for agencies that wish to serve specific populations, including
17 children with exceptional needs or children of prisoners. These
18 new waivers may not include proposals to avoid appropriate fee
19 schedules or admit ineligible families, but may include proposals
20 to accept members of special populations in other than strict
21 income order, as long as appropriate fees are paid.

22 (c) Notwithstanding any other law, in order to promote
23 continuity of services, a family enrolled in a state or federally
24 funded child care and development program whose services
25 would otherwise be terminated because the family no longer
26 meets the program income, eligibility, or need criteria may
27 continue to receive child development services in another state or
28 federally funded child care and development program if the
29 contractor is able to transfer the enrollment of the family to
30 another program for which the family is eligible prior to the date
31 of termination of services or to exchange the existing enrollment
32 of the family with the enrollment of a family in another program,
33 provided that both families satisfy the eligibility requirements for
34 the program in which they are being enrolled. The transfer of
35 enrollment may be to another program within the same
36 administrative agency or to another agency that administers state
37 or federally funded child care and development programs.

38 (d) A physical examination and evaluation, including
39 age-appropriate immunization, shall be required prior to, or
40 within six weeks of, enrollment. A standard, rule, or regulation

1 shall not require medical examination or immunization for
2 admission to a child care and development program of a child
3 whose parent or guardian files a letter with the governing board
4 of the child care and development program stating that the
5 medical examination or immunization is contrary to his or her
6 religious beliefs, or provide for the exclusion of a child from the
7 program because of a parent or guardian having filed the letter.
8 However, if there is good cause to believe that a child is suffering
9 from a recognized contagious or infectious disease, the child
10 shall be temporarily excluded from the program until the
11 governing board of the child care and development program is
12 satisfied that the child is not suffering from that contagious or
13 infectious disease.

14 (e) Regulations formulated and promulgated pursuant to this
15 section shall include the recommendations of the State
16 Department of Health Services relative to health care screening
17 and the provision of health care services. The Superintendent
18 shall seek the advice and assistance of these health authorities in
19 situations where service under this chapter includes or requires
20 care of ill children or children with exceptional needs.

21 (f) (1) The Superintendent shall establish a fee schedule for
22 families utilizing child care and development services pursuant to
23 this chapter, including families receiving services under
24 paragraph (1) of subdivision (b). Families receiving services
25 under subparagraph (B) of paragraph (1) of subdivision (b) may
26 be exempt from these fees for up to three months. Families
27 receiving services under subparagraph (C) of paragraph (1) of
28 subdivision (b) may be exempt from these fees for up to 12
29 months. The cumulative period of time of exemption from these
30 fees for families receiving services under paragraph (1) of
31 subdivision (b) shall not exceed 12 months.

32 (2) The income of a recipient of federal Supplemental Security
33 Income benefits pursuant to Title XVI of the federal Social
34 Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental
35 program benefits pursuant to Title XVI of the federal Social
36 Security Act and Chapter 3 (commencing with Section 12000) of
37 Part 3 of Division 9 of the Welfare and Institutions Code may not
38 be included as income for the purposes of determining the
39 amount of the family fee.

1 (g) The family fee schedule shall include, but not be limited
2 to, the following restrictions:

3 (1) No fees shall be assessed for families whose children are
4 enrolled in the part-day preschool program.

5 (2) A contractor or provider may require parents to provide
6 diapers. A contractor or provider offering field trips either may
7 include the cost of the field trips within the service rate charged
8 to the parent or may charge parents an additional fee. Federal or
9 state moneys may not be used to reimburse parents for the costs
10 of field trips if those costs are charged as an additional fee. A
11 contractor or provider that charges parents an additional fee for
12 field trips shall inform parents, prior to enrolling the child, that a
13 fee may be charged and that no reimbursement will be available.
14 A contractor or provider may charge parents for field trips or
15 require parents to provide diapers only under the following
16 circumstances:

17 (A) The provider has a written policy that is adopted by the
18 governing board of the agency that includes parents in the
19 decisionmaking process regarding both of the following:

20 (i) Whether, and how much, to charge for field trip expenses.

21 (ii) Whether to require parents to provide diapers.

22 (B) The maximum total of charges per child in a contract year
23 does not exceed twenty-five dollars (\$25).

24 (C) (i) No child is denied participation in a field trip due to
25 the parent's inability or refusal to pay the charge. Adverse action
26 may not be taken against any parent for that inability or refusal.

27 (ii) A contractor or provider shall establish a payment system
28 that prevents the identification of children based on whether or
29 not their parents have paid a field trip charge.

30 (iii) Expenses incurred and income received for field trips
31 pursuant to this section shall be reported to the State Department
32 of Education. The income received for field trips shall be
33 reported specifically as restricted income.

34 (h) The Superintendent shall establish guidelines for the
35 collection of employer-sponsored child care benefit payments
36 from any parent whose child receives subsidized child care and
37 development services. These guidelines shall provide for the
38 collection of the full amount of the benefit payment, but not to
39 exceed the actual cost of child care and development services

1 provided, notwithstanding the applicable fee based on the fee
2 schedule.

3 (i) The Superintendent shall establish guidelines according to
4 which the director or a duly authorized representative of the child
5 care and development program will certify children as eligible
6 for state reimbursement pursuant to this section.

7 (j) Public funds may not be paid directly or indirectly to any
8 agency that does not pay at least the minimum wage to each of its
9 employees.

10 SEC. 10. Section 8278 of the Education Code is amended to
11 read:

12 8278. (a) Notwithstanding any other provision of law, child
13 development appropriations, with the exception of funds
14 appropriated for the After School Learning and Safe
15 Neighborhoods Partnerships Program pursuant to Article 22.5
16 (commencing with Section 8482) and for CalWORKs child care
17 pursuant to Sections 8353 and 8354, shall be available for
18 expenditure for three years, except that funds remaining
19 unencumbered at the end of the first fiscal year shall revert to the
20 General Fund.

21 (b) It is the intent of the Legislature to assure that the
22 allocation and reallocation of funds for child care and
23 ~~development~~ *development* services occur on a timely basis to
24 prevent eligible families from losing funding. The
25 Superintendent shall establish criteria and procedures for the
26 reallocation of unearned contract funds in the second and third
27 years of availability, in accordance with the following priorities:

28 (1) First, for the accounts payable of the State Department of
29 Education.

30 (2) Second, to reimburse alternative payment programs for the
31 provision of additional services, in accordance with Section
32 8222.1.

33 (3) Third, for one-time expenditures that will benefit children
34 in subsidized child care, which include, but are not limited to, the
35 purchase of materials approved by the State Department of
36 Education for deferred and major maintenance of existing
37 facilities, respite care, and implementation of capacity building
38 activities, which include new facilities, training, and technical
39 assistance. Notwithstanding any other provision of law, the

1 allocation for these one-time expenditures may not be made
2 unless approved in the annual Budget Act.

3 SEC. 11. In order to avoid making changes to existing
4 full-day programs in the middle of a fiscal year, Section 8 of this
5 act shall become operative no sooner than July 1, ~~2006~~ 2007.

6 SEC. 12. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety
8 within the meaning of Article IV of the Constitution and shall go
9 into immediate effect. The facts constituting the necessity are:

10 In order that the children of families ~~that are eligible~~ *who are*
11 *eligible* to receive state-subsidized child care and development
12 services may be better prepared to perform well in kindergarten
13 at the earliest possible time, it is necessary that this act take effect
14 immediately.