

AMENDED IN SENATE AUGUST 28, 2023
AMENDED IN ASSEMBLY FEBRUARY 1, 2023
CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 140

Introduced by Committee on Budget (Assembly Members Ting (Chair), Alvarez, ~~Arambula~~, Bennett, Bonta, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Garcia, Hart, Jackson, Jones-Sawyer, Lee, McCarty, Muratsuchi, Ramos, Reyes, Luz Rivas, Blanca Rubio, ~~Weber~~, Wicks, and Wood)

January 9, 2023

~~An act relating to the Budget Act of 2023.~~ *An act to amend Sections 8205, 8245.5, 8252, and 8489.1 of, and to add Section 8223.5 to, the Education Code, and to amend Sections 10213.5, 10227.5, 10227.6, and 10491.1 of, and to add Sections 10277, 10277.1, 10277.2, 10277.3, 10277.4, and 10277.5 to, the Welfare and Institutions Code, to amend Section 4 of Chapter 261 of the Statutes of 2021, and to repeal Section 24 of Chapter 41 of the Statutes of 2023, relating to early childcare and education, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 140, as amended, Committee on Budget. ~~Budget Act of 2023.~~ *Early childcare and education.*

Existing law, the Child Care and Development Services Act, administered by the State Department of Social Services, establishes a system of childcare and development services for children up to 13 years of age. Existing law, the Early Education Act, among other things, requires the Superintendent of Public Instruction to administer all

California state preschool programs, including, but not limited to, part-day and full-day developmentally and age-appropriate programs for 3- and 4-year-old children. Existing law requires the State Department of Social Services to coordinate with the State Department of Education and others to develop the state plan for purposes of the federal Child Care and Development Fund (CCDF).

Existing law requires the State Department of Social Services, in collaboration with the State Department of Education, to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates. Existing law requires the state and Child Care Providers United - California to establish a Joint Labor Management Committee to develop recommendations for a single reimbursement rate structure that addresses quality standards for equity and accessibility while supporting positive learning and developmental outcomes for children, as specified. Existing law also requires the department, in collaboration with the State Department of Education, to develop and conduct an alternative methodology, as specified, in order to set reimbursement rates for state-subsidized childcare and development services.

This bill would, among other things, require the State Department of Social Services to, no later than May 15, 2024, report the status of the draft CCDF state plan to specified budget subcommittees and the Legislative Analyst's Office on the state's proposed single rate structure, and to, no later than July 1, 2024, submit the necessary information to support use of a single rate structure utilizing the alternative methodology to the United States Department of Health and Human Services, Administration for Children and Families in the state plan or an amendment to the state plan. The bill would also require the department to provide the same budget subcommittees and the Legislative Analyst's Office with an outline of implementation components for the approved single rate structure within 60 days of federal approval of the single rate structure utilizing the alternative methodology in the state plan, and would require that single rate structure to apply to specified subsidized childcare and development programs under the department and state preschool programs under the State Department of Education.

This bill would require, on or before March 1, 2024, a contractor operating a California state preschool program through a family childcare home education network and each county and contractor that reimburses childcare providers for the provision of state-funded

subsidized childcare and development services to develop, implement, and publish a plan for timely payment to providers, as specified. This bill would allocate previously appropriated funds in the Budget Act of 2023 to the State Department of Social Services and State Department of Education to provide specified family childcare providers and childcare centers with a monthly cost of care plus rate commencing January 1, 2024, and through June 30, 2025, inclusive, and a flat-rate, one-time payment, as specified.

Existing law previously appropriated funds for the establishment of the Joint Child Care Providers United - State of California Training Partnership Fund and to establish a health care benefits trust administered by Child Care Providers United - California, as specified.

This bill would allocate additional funds for those purposes, as specified. The bill would also appropriate \$100,000 from the General Fund to the State Department of Social Services for a one-time contribution to Child Care Providers United - California, or its designee, for the establishment of the Child Care Providers United - California Retirement Trust, and \$80,000,000 from the General Fund to the State Department of Social Services for a lump-sum contribution to the trust for the purpose of providing retirement benefits to family childcare providers, and would allocate additional funds for that purpose, as provided. The bill would also approve the agreement dated June 30, 2023, entered into by the Governor and Child Care Providers United - California, in its sole capacity as the certified provider organization representing family childcare providers, as specified.

This bill would provide that if specified provisions of the bill are in conflict with the provisions of a memorandum of understanding reached between the Governor and a certified provider organization pursuant to a specified provision, the memorandum of understanding shall be controlling without further legislative action, except as specified.

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

~~This bill would express the intent of the Legislature to enact statutory changes, relating to the Budget Act of 2023.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 *SECTION 1. Section 8205 of the Education Code is amended*
2 *to read:*

3 8205. As used in this chapter:

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

13 (b) “Assigned reimbursement rate” is that rate established by
14 the contract with the agency in accordance with Section 8242.

15 (c) “Attendance” means the number of children present at a
16 preschool facility. “Attendance,” for purposes of reimbursement,
17 includes excused absences by children because of illness,
18 quarantine, illness or quarantine of their parent, family emergency,
19 or to spend time with a parent or other relative as required by a
20 court of law or that is clearly in the best interest of the child.

21 (d) “Capital outlay” means the amount paid for the renovation
22 and repair of childcare and development and preschool facilities
23 to comply with state and local health and safety standards, and the
24 amount paid for the state purchase of relocatable childcare and
25 development and preschool facilities for lease to qualifying
26 contracting agencies.

27 (e) “Preschool facility” means a residence or building or part
28 thereof in which preschool services are provided.

29 (f) “Early childhood programs” means those programs that offer
30 a full range of services for children from infancy to 13 years of
31 age, for any part of a day, by a public, private, or proprietary
32 agency, in centers and family childcare homes.

33 (g) “Children at risk of abuse, neglect, or exploitation” means
34 children who are so identified in a written referral from a legal,
35 medical, or social service agency, or emergency shelter.

36 (h) “Children with exceptional needs” means either of the
37 following:

1 (1) Children under three years of age who have been determined
2 to be eligible for early intervention services pursuant to the
3 California Early Intervention Services Act (Title 14 (commencing
4 with Section 95000) of the Government Code) and its
5 implementing regulations. These children include an infant or
6 toddler with a developmental delay or established risk condition,
7 or who is at high risk of having a substantial developmental
8 disability, as defined in subdivision (a) of Section 95014 of the
9 Government Code. These children shall have active individualized
10 family service plans and shall be receiving early intervention
11 services.

12 (2) Children 3 to 21 years of age, inclusive, who have been
13 determined to be eligible for special education and related services
14 by an individualized education program team according to the
15 special education requirements contained in Part 30 (commencing
16 with Section 56000) of Division 4 of Title 2, and who meet
17 eligibility criteria described in Section 56026 and, Article 2.5
18 (commencing with Section 56333) of Chapter 4 of Part 30 of
19 Division 4 of Title 2, and Sections 3030 and 3031 of Title 5 of the
20 California Code of Regulations. These children shall have an active
21 individualized education program and shall be receiving early
22 intervention services or appropriate special education.

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

37 (j) "Elementary school," as contained in former Section 425 of
38 Title 20 of the United States Code (the National Defense Education
39 Act of 1958, Public Law 85-864, as amended), includes early
40 childhood education programs and all child development programs,

1 for the purpose of the cancellation provisions of loans to students
2 in institutions of higher learning.

3 (k) “Family childcare home education network” means an entity
4 organized under law that contracts with the department to make
5 payments to licensed family childcare home providers and to
6 provide educational and support services to those providers and
7 to children and families eligible for California state preschool
8 program services.

9 (l) “Health services” include, but are not limited to, all of the
10 following:

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

13 (2) Health screening and health treatment, including a full range
14 of immunization recorded on the appropriate state immunization
15 form to the extent provided by the Medi-Cal Act (Chapter 7
16 commencing with Section 14000) of Part 3 of Division 9 of the
17 Welfare and Institutions Code) and the Child Health and Disability
18 Prevention Program (Article 6 (commencing with Section 124025)
19 of Chapter 3 of Part 2 of Division 106 of the Health and Safety
20 Code), but only to the extent that ongoing care cannot be obtained
21 utilizing community resources.

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

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

26 (m) “Higher educational institutions” means the Regents of the
27 University of California, the Trustees of the California State
28 University, the Board of Governors of the California Community
29 Colleges, and the governing bodies of any accredited private
30 nonprofit institution of postsecondary education.

31 (n) “Intergenerational staff” means persons of various
32 generations.

33 (o) “Dual language learner children” means children whose first
34 language is a language other than English or children who are
35 developing two or more languages, one of which may be English.

36 (p) “Parent” means a biological parent, stepparent, adoptive
37 parent, foster parent, caretaker relative, or any other adult living
38 with a child who has responsibility for the care and welfare of the
39 child.

1 (q) "Program director" means a person who, pursuant to Section
2 8298, is qualified to serve as a program director.

3 (r) "Proprietary agency" means an organization or facility
4 providing preschool, which is operated for profit.

5 (s) "Children with severe disabilities" are children with
6 exceptional needs from birth to 21 years of age, inclusive, who
7 require intensive instruction and training in programs serving pupils
8 with the following profound disabilities: autism, blindness,
9 deafness, severe orthopedic impairments, serious emotional
10 disturbances, or severe intellectual disabilities. "Children with
11 severe disabilities" also include those individuals who would have
12 been eligible for enrollment in a developmental center for
13 handicapped pupils under Chapter 6 (commencing with Section
14 56800) of Part 30 of Division 4 of Title 2 as it read on January 1,
15 1980.

16 (t) (1) "Site supervisor" means a person who, regardless of their
17 title, has operational program responsibility for an early childhood
18 program at a single site.

19 (2) A site supervisor shall satisfy one of the following:

20 (A) Hold a permit issued by the Commission on Teacher
21 Credentialing that authorizes supervision of a childcare and
22 development program operating in a single site.

23 (B) Hold an administrative credential or an administrative
24 services credential issued by the Commission on Teacher
25 Credentialing.

26 (C) Meet the qualifications of a program director under Section
27 8298.

28 (3) The Superintendent may waive the requirements of this
29 subdivision if the Superintendent determines that the existence of
30 compelling need is appropriately documented.

31 (u) "Standard reimbursement rate" means the reimbursement
32 rate applicable to California state preschool programs pursuant to
33 Section 8242.

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

37 (w) "California state preschool program" means those programs
38 that offer part-day or full-day, or both, educational programs for
39 eligible three- and four-year-old children. These programs may be
40 offered by a public, private, or proprietary agency, and operated

1 in childcare centers or family childcare homes operating through
2 a family childcare home education network.

3 (x) “Support services” means those services that, when
4 combined with preschool services, help promote the healthy
5 physical, mental, social, and emotional growth of children. Support
6 services may include, but are not limited to: protective services,
7 parent training, provider and staff training, transportation, parent
8 and child counseling, child development resource and referral
9 services, and child placement counseling.

10 (y) “Teacher” means a person with the appropriate permit issued
11 by the Commission on Teacher Credentialing who provides
12 program supervision and instruction that includes supervision of
13 a number of aides, volunteers, and groups of children.

14 (z) “Underserved area” means a county or subcounty area,
15 including, but not limited to, school districts, census tracts, or ZIP
16 Code areas, where the ratio of publicly subsidized preschool
17 program services to the need for these services is low, as
18 determined by the Superintendent.

19 (aa) “Three-year-old children” means children who will have
20 their third birthday on or before December 1 of the fiscal year in
21 which they are enrolled in a California state preschool program.
22 Children who have their third birthday on or after December 2 of
23 the fiscal year, may be enrolled in a California state preschool
24 program on or after their third birthday. Any child under four years
25 of age shall be served in a California state preschool program
26 facility, licensed in accordance with Title 22 of the California Code
27 of Regulations.

28 (ab) “Four-year-old children” means children who will have
29 their fourth birthday on or before December 1 of the fiscal year in
30 which they are enrolled in a California state preschool program,
31 or a child whose fifth birthday occurs after September 1 of the
32 fiscal year in which they are enrolled in a California state preschool
33 and whose parent or guardian has opted to retain or enroll them in
34 a California state preschool program.

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

38 (ad) “Local educational agency” means a school district, a
39 county office of education, a community college district, or a

1 school district acting on behalf of one or more schools within the
2 school district.

3 (ae) “Funded enrollment” means the number of subsidized
4 children funded to be enrolled, based on the maximum
5 reimbursable amount, contract rate, inclusive of any adjustment
6 factors, and approved program calendar, by a California state
7 preschool program contractor.

8 (af) (1) *Effective no later than March 1, 2024, “part-time”*
9 *means preschool services certified for a child for fewer than 25*
10 *hours per week.*

11 (2) *Effective no later than March 1, 2024, “full-time” means*
12 *preschool services certified for a child for 25 or more hours per*
13 *week.*

14 (3) *Notwithstanding the rulemaking provisions of the*
15 *Administrative Procedure Act (Chapter 3.5 (commencing with*
16 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
17 *Code) and Section 33308.5, until regulations are filed with the*
18 *Secretary of State to implement this subdivision, the department*
19 *may implement this subdivision through management bulletins or*
20 *similar letters of instruction on or before December 31, 2023.*

21 (4) *The department shall initiate a rulemaking action to adopt*
22 *regulations to implement this subdivision no later than July 1,*
23 *2026.*

24 (5) *If the provisions of this subdivision are in conflict with the*
25 *provisions of a memorandum of understanding reached pursuant*
26 *to Section 10426 of the Welfare and Institutions Code, the*
27 *memorandum of understanding shall be controlling without further*
28 *legislative action, except that if such provisions of a memorandum*
29 *of understanding require the expenditure of funds, the provisions*
30 *shall not become effective unless approved by the Legislature in*
31 *the annual Budget Act.*

32 SEC. 2. *Section 8223.5 is added to the Education Code, to*
33 *read:*

34 8223.5. (a) *On or before March 1, 2024, a contractor*
35 *operating a California state preschool program through a family*
36 *childcare home education network shall develop, implement, and*
37 *publish for access by family childcare providers a plan for timely*
38 *payment to family childcare home providers, including publication*
39 *in written information for providers and in individual provider*
40 *agreements. The plan shall include all of the following:*

1 (1) A provision requiring that family childcare providers shall
2 be paid within 21 calendar days of the provider's submission of
3 daily sign-in and sign-out sheets, as referenced in Section 17818
4 of Title 5 of the California Code of Regulations.

5 (2) A schedule for the payment of services that shall be signed
6 by the family childcare provider.

7 (3) A provision requiring that if a provider submits attendance
8 records or invoices for multiple children and not all individual
9 records or invoices within the submission include adequate
10 information to provide a payment, payments shall not be withheld
11 for those individual records or invoices that include adequate
12 information to provide a payment.

13 (4) Procedures that establish clear processes and timelines to
14 resolve overpayment and underpayment issues, which shall include
15 the provider's written consent to recover any overpayment.

16 (5) A provision that if a contractor is unable to issue
17 reimbursement payments to providers within 21 calendar days
18 pursuant to the requirement specified in paragraph (1) due to
19 extenuating circumstances, including, but not limited to, an
20 emergency or payment system malfunction, the impacted provider
21 shall be notified within a reasonable timeframe of the contractor
22 becoming aware of the circumstance causing the delay of
23 reimbursement payment.

24 (b) Contractors shall publish the plans developed pursuant to
25 this section for childcare providers to access and reference. The
26 plans shall be published in documents available to providers, such
27 as individual provider agreements, as appropriate.

28 (c) The department shall support contractors with the
29 development and implementation of the plans prepared pursuant
30 to this section and in compliance with the requirement for timely
31 payments. If the department becomes aware that a contractor is
32 not complying with the requirements of this section, the department
33 may issue a finding of noncompliance, and the contractor may be
34 subject to corrective action.

35 (d) If the provisions of this section are in conflict with the
36 provisions of a memorandum of understanding reached pursuant
37 to Section 10426 of the Welfare and Institutions Code, the
38 memorandum of understanding shall be controlling without further
39 legislative action, except that if such provisions of a memorandum
40 of understanding require the expenditure of funds, the provisions

1 *shall not become effective unless approved by the Legislature in*
2 *the annual Budget Act.*

3 *SEC. 3. Section 8245.5 of the Education Code is amended to*
4 *read:*

5 8245.5. (a) (1) Notwithstanding any other law, for the 2022–23
6 fiscal year only, contracting agencies operating a California state
7 preschool program shall be reimbursed according to paragraph
8 (2), if they meet either of the following requirements:

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

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

15 (2) Reimbursement pursuant to paragraph (1) shall be 100
16 percent of the contract maximum reimbursable amount or net
17 reimbursable program costs, whichever is less, pursuant to guidance
18 released by the Superintendent.

19 (3) A California state preschool program that is physically closed
20 as described in subparagraph (B) of paragraph (1) due to the
21 COVID-19 pandemic, but funded to be operational, shall provide
22 distance learning services, as specified by the Superintendent, for
23 the program. A contractor specified in paragraph (1) shall submit
24 a distance learning plan to the department overseeing their contract
25 pursuant to guidance from the Superintendent.

26 (b) Notwithstanding any other law, reimbursement for full-day
27 and part-day California state preschool family childcare home
28 education network providers for the 2022–23 fiscal year shall be
29 based on the maximum certified hours of care for all families,
30 including families certified for a variable schedule, regardless of
31 attendance.

32 (c) *Notwithstanding any other law, commencing July 1, 2023,*
33 *to June 30, 2025, inclusive, if a program is open and operating in*
34 *accordance with their approved program calendar and remains*
35 *open and offering services through the program year, the contract*
36 *reimbursement amount shall be based on the lesser of either of*
37 *the following:*

38 (1) *One hundred percent of the contract maximum reimbursable*
39 *amount.*

40 (2) *Net reimbursable program costs.*

1 (d) Notwithstanding any other law, reimbursement for full-day
2 and part-day California state preschool family childcare home
3 education network providers for the 2023–24 fiscal year shall be
4 based on the maximum certified hours of care for all families,
5 including families certified for a variable schedule, regardless of
6 attendance.

7 (e) If the provisions of subdivisions (c) and (d) are in conflict
8 with the provisions of a memorandum of understanding reached
9 pursuant to Section 10426 of the Welfare and Institutions Code,
10 the memorandum of understanding shall be controlling without
11 further legislative action, except that if such provisions of a
12 memorandum of understanding require the expenditure of funds,
13 the provisions shall not become effective unless approved by the
14 Legislature in the annual Budget Act.

15 SEC. 4. Section 8252 of the Education Code is amended to
16 read:

17 8252. (a) The Superintendent shall use the fee schedule
18 developed in conjunction with the State Department of Social
19 Services for families using full-day preschool services pursuant
20 to this chapter, including families receiving services pursuant to
21 subdivision (a) of Section 8211.

22 (b) Families shall be assessed a single flat monthly fee for all
23 state subsidized early childhood services received, including
24 California state preschool program services and services received
25 through childcare and development programs administered by the
26 State Department of Social Services, pursuant to Section 10290
27 of the Welfare and Institutions Code.

28 (c) The income of a recipient of federal supplemental security
29 income benefits pursuant to Title XVI of the federal Social Security
30 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program
31 benefits pursuant to Title XVI of the federal Social Security Act
32 (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with
33 Section 12000) of Part 3 of Division 9 of the Welfare and
34 Institutions Code shall not be included in total countable income
35 for purposes of determining the amount of the family fee.

36 (d) Family fees shall be assessed at initial enrollment and
37 reassessed at recertification.

38 (e) Family fees shall be used by contractors to pay reasonable
39 and necessary costs for providing additional services.

1 ~~(f) It is the intent of the Legislature that the new family fees~~
2 ~~shall be cost neutral to the state and generate roughly the same~~
3 ~~amount of revenue as was generated under the previous family fee~~
4 ~~schedule.~~

5 ~~(g)~~

6 (f) Family fees shall not be based on the cost of care or amount
7 of subsidy payment.

8 ~~(h)~~

9 (g) Notwithstanding any other provision of this article, family
10 fees shall not be collected for the 2021–22 fiscal year pursuant to
11 Section 263 of Chapter 116 of the Statutes of 2021.

12 ~~(i)~~

13 (h) (1) Notwithstanding any other law, family fees shall not be
14 collected for the 2022–23 fiscal year.

15 (2) Contractors shall reimburse providers operating within a
16 family childcare home education network for the full amount of
17 the certificate or voucher without deducting family fees.

18 ~~(j)~~

19 (i) (1) Notwithstanding any other law, family fees shall not be
20 collected between July 1, 2023, and September 30, 2023, inclusive.

21 (2) Contractors shall reimburse providers operating within a
22 family childcare home education network for the full amount of
23 the certificate or voucher without deducting family fees.

24 ~~(k)~~

25 (j) Family fees accrued but uncollected prior to October 1, 2023,
26 may be forgiven and not collected.

27 ~~(l)~~

28 (k) (1) A California state preschool program or childcare
29 provider paid with childcare subsidies, including, but not limited
30 to, a family childcare home provider participating in a family
31 childcare home education network, shall not absorb a reduction in
32 pay for the California state preschool program space or voucher
33 on account of a waiver of or reduction in family fees.

34 (2) The number of California state preschool program contracted
35 spaces and childcare contracted spaces shall not be reduced on
36 account of a reduction in the collection of family fees.

37 *SEC. 5. Section 8489.1 of the Education Code is amended to*
38 *read:*

39 8489.1. (a) (1) Except as authorized by paragraph (3), a
40 program shall not do either of the following:

1 (A) Expel or unenroll a child because of a child's behavior.

2 (B) Persuade or encourage a child's parents or legal guardians
3 to voluntarily unenroll from the program due to a child's behavior.

4 (2) (A) If a child exhibits persistent and serious behaviors, the
5 program shall expeditiously pursue and document reasonable steps,
6 including, but not limited to, consulting with the child's parents
7 or legal guardians and teacher, and, if available, engaging an early
8 childhood mental health consultant, to maintain the child's safe
9 participation in the program. The program shall inform the parents
10 or legal guardians of a child exhibiting persistent and serious
11 behaviors of the process described in this section in writing,
12 including a description of the behaviors and the program's plan
13 for maintaining the child's safe participation in the program.

14 (B) (i) If the child has an individualized family service plan or
15 individualized education program, the program, with written
16 parental consent, shall contact the agency responsible for the
17 individualized family service plan or individualized education
18 program to seek consultation on serving the child.

19 (ii) The program shall consider, if appropriate, completing a
20 comprehensive screening to identify the needs of the child,
21 including, but not limited to, screening the child's social and
22 emotional development, referring the child's parents or legal
23 guardians to community resources, and implementing behavior
24 supports within the program.

25 (3) If a program has expeditiously pursued and documented
26 reasonable steps to maintain the child's safe participation in the
27 program and determines, in consultation with the parents or legal
28 guardians of the child, the child's teacher, and, if applicable, the
29 local agency responsible for implementing the federal Individuals
30 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), that
31 the child's continued enrollment would present a serious safety
32 threat to the child or other enrolled children, it shall refer the
33 parents or legal guardians to other potentially appropriate
34 placements, the local childcare resource and referral agency, or
35 other referral service available in the local community, and, to the
36 greatest extent possible, support direct transition to a more
37 appropriate placement. The program may then unenroll the child.

38 (4) A program shall have up to 180 days to complete the process
39 described in paragraphs (2) and (3).

1 (b) (1) Except as provided in paragraphs (2), (3), and (4), a
2 program shall not do either of the following:

3 (A) Suspend a child due to a child's behavior.

4 (B) Encourage or persuade a child's parents or legal guardians
5 to prematurely pick up a child due to a child's behavior before the
6 program day ends.

7 (2) Suspension shall only be used as a last resort in extraordinary
8 circumstances when there is a serious safety threat that cannot be
9 reduced or eliminated without removal. To the greatest extent
10 possible, a program shall endeavor to ensure the full participation
11 of enrolled children in all program activities.

12 (3) Before a program determines that suspension is necessary,
13 the program shall collaborate with the child's parents or legal
14 guardians and use appropriate community resources, as needed,
15 to determine no other reasonable option is appropriate, and provide
16 written notice to the child's parents or legal guardians pursuant to
17 paragraph (4) of subdivision (c).

18 (4) If suspension is deemed necessary, a program shall help the
19 child return to full participation in all program activities as quickly
20 as possible while ensuring child safety by doing all of the
21 following:

22 (A) Continuing to engage with the parents or legal guardians
23 and continuing to use appropriate community resources.

24 (B) Developing a written plan to document the action and
25 supports needed.

26 (C) Providing referrals to appropriate community services.

27 (D) If the child has an individualized family service plan or
28 individualized education program, the program, with written
29 parental consent, shall contact the agency responsible for the
30 individualized family service plan or individualized education
31 program to seek consultation on serving the child.

32 (c) (1) The State Department of Education shall, commencing
33 July 1, 2023, include in each contract for service with a program
34 the limitations on expulsion and suspension provided in this
35 section.

36 (2) Commencing July 1, 2023, upon enrollment of a child, a
37 program shall notify the child's parents or legal guardians of the
38 limitations on disenrollment, including expulsion and suspension
39 provided in this section. This notification shall be in writing and

1 shall inform parents on how they may file an appeal to the
2 department in the event of the expulsion or suspension of a child.

3 (3) Commencing July 1, 2023, in the event a program suspends
4 or expels a child pursuant to this section, the program shall issue
5 the child's parent or guardian a written "Notice of Action,
6 Recipient of Services," as described in Section 17783 of Title 5
7 of the California Code of Regulations, with the exception that the
8 effective date of the action may be no less than 24 hours after
9 service of the notice. The agency shall, at the same time, inform
10 the parent or guardian in writing of their right to file an appeal of
11 the action directly with the department no later than 14 calendar
12 days after receipt of the notice. Because the action to suspend or
13 expel a child involves persistent and serious behaviors that impact
14 the safety of children, the action shall not be stayed during the
15 pendency of any appeal.

16 (d) Notwithstanding the rulemaking provisions of the
17 Administrative Procedure Act (Chapter 3.5 (commencing with
18 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
19 Code) and Section 33308.5, until regulations are filed with the
20 Secretary of State, the State Department of Education shall, in
21 consultation with the State Department of Social Services, on or
22 before December 31, 2023, issue guidance through management
23 bulletins or similar letters of instruction for programs on
24 implementing the requirements set forth in this article.

25 (e) A program shall maintain records on, and, beginning on July
26 1, 2030, and subject to an appropriation by the Legislature for this
27 purpose, the State Department of Education shall annually collect
28 from contracting agencies, all of the following information:

29 (1) The number of times the process described in paragraph (2)
30 of subdivision (a) was initiated during a program year, and the
31 outcome of each reported instance.

32 (2) The number of times the process described in paragraphs
33 (3) and (4) of subdivision (b) was initiated during a program year,
34 and the outcome of each reported instance, including, if applicable,
35 how long a child was excluded from the program.

36 (3) The data collected pursuant to paragraphs (1) and (2) shall
37 include for each child, at a minimum, age, sex, race and ethnicity,
38 foster status, home language, disability, and whether the child has
39 an individualized family service plan or an individualized education
40 program.

(f) (1) Subject to an appropriation by the Legislature for this purpose, no later than January 1, 2031, and annually thereafter, the State Department of Education shall publish aggregate data on how many times during the most recent program year the processes described in paragraph (2) of subdivision (a) and paragraphs (3) and (4) of subdivision (b) were initiated and the outcomes of the processes, disaggregated by student demographic, as required, and how many appeals or complaints the State Department of Education received from parents or legal guardians regarding expulsion and suspension. The data shall be made available at a statewide and countywide level and shall be disaggregated by age, sex, race and ethnicity, foster status, home language, disability, and assignment of an individualized family service plan or individualized education program, as applicable, pursuant to all applicable federal and state privacy protections.

(2) Data collection pursuant to subdivision (e), and reporting pursuant to this subdivision, by the State Department of Education shall, to the greatest extent possible, be undertaken within the framework of the department's existing data systems.

(g) The State Department of Education shall create guidelines for offering additional support and requiring additional staff training for programs with exceptionally high numbers of suspension and expulsion reported pursuant to this section.

(h) (1) This section shall not apply to licensed family childcare providers until the joint labor-management committee established pursuant to paragraph (2) of subdivision (a) of Section 10424.5 of the Welfare and Institutions Code makes recommendations for potential changes related to suspensions and expulsions.

(2) *Within 10 calendar days of the committee recommendations being completed, the State Department of Social Services and State Department of Education shall provide the committee recommendations to the Senate Health and Human Services budget subcommittees, Assembly and Senate Education budget subcommittees, and the Legislative Analyst's Office.*

SEC. 6. *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 childcare agency to another agency or childcare provider for the provision of childcare and development services, and payments

1 that are made by an agency to a parent for the parent's purchase
2 of childcare 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 10225.5, or a migrant alternative
6 payment program pursuant to Chapter 6 (commencing with Section
7 10235), to provide alternative payments and to provide support
8 services to parents and providers.

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

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

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

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

38 (h) "Childcare and development facility" means a residence or
39 building or part thereof in which childcare and development
40 services are provided.

1 (i) ~~“Child care”~~ “Childcare and development programs” means
2 those 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 childcare homes. These
5 programs include, but are not limited to, all of the following:

- 6 (1) General childcare and development.
- 7 (2) Migrant childcare and development.
- 8 (3) Childcare provided by the California School Age Families
9 Education Program (Article 7.1 (commencing with Section 54740)
10 of Chapter 9 of Part 29 of Division 4 of Title 2).
- 11 (4) Resource and referral.
- 12 (5) ~~“Child care and”~~ *Childcare and* development services for
13 children with exceptional needs.
- 14 (6) Family childcare home education network.
- 15 (7) Alternative payment.
- 16 (8) Schoolage community childcare.

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

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

27 (l) “Children with exceptional needs” means either of the
28 following:

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

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

7 (p) “Family childcare home education network” means an entity
8 organized under law that contracts with the department pursuant
9 to Section 10250 to make payments to licensed family childcare
10 home providers and to provide educational and support services
11 to those providers and to children and families eligible for
12 state-subsidized childcare and development services. A family
13 childcare home education network may also be referred to as a
14 family childcare home system.

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

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

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

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

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

31 (r) “Higher educational institutions” means the Regents of the
32 University of California, the Trustees of the California State
33 University, the Board of Governors of the California Community
34 Colleges, and the governing bodies of any accredited private
35 nonprofit institution of postsecondary education.

36 (s) “Intergenerational staff” means persons of various
37 generations.

38 (t) “Dual language learner” means children whose first language
39 is a language other than English or children who are developing
40 two or more languages, one of which may be English.

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

5 (v) “Program director” means a person who, pursuant to Sections
6 10242 and 10380.5, is qualified to serve as a program director.

7 (w) “Proprietary childcare agency” means an organization or
8 facility providing childcare, which is operated for profit.

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

17 (y) “Severely disabled children” are children with exceptional
18 needs from birth to 21 years of age, inclusive, who require intensive
19 instruction and training in programs serving pupils with the
20 following profound disabilities: autism, blindness, deafness, severe
21 orthopedic impairments, serious emotional disturbances, or severe
22 intellectual disabilities. “Severely disabled children” also include
23 those individuals who would have been eligible for enrollment in
24 a developmental center for handicapped pupils under Chapter 7
25 (commencing with Section 56800) of Part 30 of Division 4 of Title
26 2 of the Education Code as it read on January 1, 1980.

27 (z) “Short-term respite childcare” means childcare service to
28 assist families whose children have been identified through written
29 referral from a legal, medical, or social service agency, or
30 emergency shelter as being neglected, abused, exploited, or
31 homeless, or at risk of being neglected, abused, exploited, or
32 homeless. Childcare is provided for less than 24 hours per day in
33 childcare centers, treatment centers for abusive parents, family
34 childcare homes, or in the child’s own home.

35 (aa) “Site supervisor” means a person who, regardless of their
36 title, has operational program responsibility for a childcare and
37 development program at a single site. A site supervisor shall hold
38 a permit issued by the Commission on Teacher Credentialing that
39 authorizes supervision of a childcare and development program
40 operating in a single site. The department may waive the

1 requirements of this subdivision if the department determines that
2 the existence of compelling need is appropriately documented.

3 (ab) “Standard reimbursement rate” means that rate established
4 by the department pursuant to Section 10280.

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

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

11 (ae) “Support services” means those services that, when
12 combined with childcare and development services, help promote
13 the healthy physical, mental, social, and emotional growth of
14 children. Support services include, but are not limited to: protective
15 services, parent training, provider and staff training, transportation,
16 parent and child counseling, child development resource and
17 referral services, and child placement counseling.

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

22 (ag) “Underserved area” means a county or subcounty area,
23 including, but not limited to, school districts, census tracts, or ZIP
24 Code areas, where the ratio of publicly subsidized childcare and
25 development program services to the need for these services is
26 low, as determined by the department.

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

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

30 (2) To undertake or retain a job.

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

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

38 (aj) “Local educational agency” means a school district, a county
39 office of education, a community college district, or a school

1 district acting on behalf of one or more schools within the school
2 district.

3 (ak) “Alternative methodology” means a cost-based *ratesetting*
4 method, including a cost estimation model, on which to base
5 payment rates pursuant to the requirements set forth in Section
6 98.45 of Title 45 of the Code of Federal Regulations.

7 (al) (1) *Effective no later than March 1, 2024, “part-time care”*
8 *means care certified for a child for fewer than 25 hours per week.*

9 (2) *Effective no later than March 1, 2024, “full-time care”*
10 *means care certified for a child for 25 or more hours per week.*

11 (3) *Notwithstanding the rulemaking provisions of the*
12 *Administrative Procedure Act (Chapter 3.5 (commencing with*
13 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
14 *Code), the department may implement and administer this*
15 *subdivision by all-county letters, bulletins, or similar written*
16 *instructions until regulations are adopted.*

17 (4) *The department shall initiate a rulemaking action to adopt*
18 *regulations to implement this subdivision no later than July 1,*
19 *2026.*

20 (5) *If the provisions of this subdivision are in conflict with the*
21 *provisions of a memorandum of understanding reached pursuant*
22 *to Section 10426, the memorandum of understanding shall be*
23 *controlling without further legislative action, except that if such*
24 *provisions of a memorandum of understanding require the*
25 *expenditure of funds, the provisions shall not become effective*
26 *unless approved by the Legislature in the annual Budget Act.*

27 SEC. 7. *Section 10227.5 of the Welfare and Institutions Code*
28 *is amended to read:*

29 10227.5. (a) ~~Child care~~ *Childcare* providers authorized to
30 provide services pursuant to this chapter shall submit to the
31 alternative payment program a monthly attendance record or
32 invoice for each child who received services that, at a minimum,
33 documents the dates and actual times care was provided each day,
34 including the time the child entered and the time the child left care
35 each day. The information shall be documented on a daily basis.

36 (b) (1) The monthly attendance record or invoice shall, at a
37 minimum, be signed by the parent or guardian of the child receiving
38 services and the ~~child care~~ *childcare* provider once per month to
39 attest that the child’s attendance is accurately reflected. The
40 verification of attendance shall be made by signature at the end of

1 each month of care and under penalty of perjury by both the parent
2 or guardian of the child receiving services and the ~~child-care~~
3 ~~childcare~~ provider.

4 (2) (A) *Notwithstanding paragraph (1) and pursuant to*
5 *subdivision (d) of Section 10277, a childcare provider may submit*
6 *a monthly attendance record or invoice without a parent's*
7 *signature when the parent has not communicated with the provider*
8 *for a minimum of seven consecutive days, the provider has notified*
9 *the contractor of the parent's lack of communication in accordance*
10 *with Section 18066.5 of Title 5 of the California Code of*
11 *Regulations, and the contractor has documented the provider's*
12 *unsuccessful attempts to collect a signature.*

13 (B) *If the provisions of this paragraph are in conflict with the*
14 *provisions of a memorandum of understanding reached pursuant*
15 *to Section 10426, the memorandum of understanding shall be*
16 *controlling without further legislative action, except that if such*
17 *provisions of a memorandum of understanding require the*
18 *expenditure of funds, the provisions shall not become effective*
19 *unless approved by the Legislature in the annual Budget Act.*

20 (c) The monthly attendance record or invoice shall be maintained
21 by the ~~child-care~~ ~~childcare~~ provider in the unaltered original format
22 in which it was created, which may be in paper form or electronic
23 format.

24 (d) The alternative payment program shall accept the monthly
25 attendance record or invoice as documentation of the hours of care
26 provided if the attendance record or invoice includes adequate
27 information documented on a daily basis, including, at a minimum,
28 the dates and actual times care was provided each day, including
29 the time the child entered and the time the child left care each day.
30 The alternative payment program shall reimburse ~~child-care~~
31 ~~childcare~~ providers based upon the following criteria:

32 (1) The hours of service provided that are broadly consistent
33 with certified hours of need.

34 (2) For families with variable schedules, the actual days and
35 hours of attendance, up to the maximum certified hours.

36 (3) For license-exempt providers that provide part-time services,
37 the actual days and hours of attendance, up to the maximum
38 certified hours.

1 (e) For purposes of reimbursement to providers through an
2 alternative payment program, contractors shall not be required to
3 track absences.

4 (f) For purposes of this section, a monthly attendance record or
5 invoice is defined as documentation that includes, at a minimum,
6 the name of the child receiving services, the dates and actual times
7 care was provided each day, including the time the child entered
8 and the time the child left care each day, that is signed under
9 penalty of perjury by both the parent or guardian and the ~~child care~~
10 *childcare* provider, attesting that the information provided is
11 accurate.

12 *SEC. 8. Section 10227.6 of the Welfare and Institutions Code*
13 *is amended to read:*

14 10227.6. (a) It is the intent of the Legislature to utilize an
15 alternative methodology, as defined in subdivision (ak) of Section
16 10213.5, to inform the setting of reimbursement rates for subsidized
17 childcare.

18 (b) Reimbursement rates are subject to agreement and
19 codification by the Legislature.

20 (c) The department, in collaboration with the State Department
21 of Education, shall develop and conduct an alternative
22 methodology. The department shall begin the process of data
23 collection and analysis pursuant to developing an alternative
24 methodology by July 1, 2023, and consult with the State
25 Department of Education on data collection, analysis, and
26 methodology for preschool programs. The alternative methodology
27 shall build on the recommendations of the working group
28 established pursuant to Section 10280.2 and shall be aligned with
29 the recommendations of the Joint Labor Management Committee
30 established pursuant to Section 10280.2.

31 (d) *No later than February 15, 2024, the department, in*
32 *collaboration with the State Department of Education and the*
33 *Joint Labor Management Committee established pursuant to*
34 *subdivision (a) of Section 10280.2, using information from the*
35 *cost estimation model, shall define elements of the base rate and*
36 *any enhanced rates to inform the state's proposed single rate*
37 *structure and rates. These elements shall be subject to the*
38 *mandated public engagement state plan process and legislative*
39 *review. The department shall report to the Senate Health and*
40 *Human Services budget subcommittees, Assembly and Senate*

1 *Education budget subcommittees, and the Legislative Analyst's*
2 *Office on progress made to conduct an alternative methodology*
3 *and cost estimate model.*

4 *(e) No later than May 15, 2024, the department shall report on*
5 *the status of the draft Child Care and Development Fund state*
6 *plan to the Senate Health and Human Services budget*
7 *subcommittees, Assembly and Senate Education budget*
8 *subcommittees, and the Legislative Analyst's Office on the state's*
9 *proposed single rate structure to be submitted to the United States*
10 *Department of Health and Human Services, Administration for*
11 *Children and Families.*

12 *(f) No later than July 1, 2024, the department shall submit*
13 *necessary information to support use of a single rate structure*
14 *utilizing the alternative methodology to the United States*
15 *Department of Health and Human Services, Administration for*
16 *Children and Families in the Child Care and Development Fund*
17 *state plan or an amendment to the state plan. The department shall*
18 *provide a copy of the Child Care and Development Fund state*
19 *plan or amendment to the state plan submitted to the United States*
20 *Department of Health and Human Services, Administration for*
21 *Children and Families to the Senate Health and Human Services*
22 *budget subcommittees, Assembly and Senate Education budget*
23 *subcommittees, and the Legislative Analyst's Office no later than*
24 *July 10, 2024.*

25 *(g) Within 60 days of federal approval of the single rate*
26 *structure utilizing the alternative methodology in the state plan,*
27 *the department shall provide the Senate Health and Human*
28 *Services budget subcommittees, Assembly and Senate Education*
29 *budget subcommittees, and the Legislative Analyst's Office an*
30 *outline of implementation components for the approved single rate*
31 *structure. For a period of 30 days, the Legislature shall have the*
32 *opportunity to review and provide feedback regarding draft*
33 *guidance for implementation of policies.*

34 *(h) The single rate structure shall apply to all programs funded*
35 *by the State Department of Social Services under Chapter 3*
36 *(commencing with Section 10225), Chapter 6 (commencing with*
37 *Section 10235), Chapter 7 (commencing with Section 10240),*
38 *Chapter 8 (commencing with Section 10250), Chapter 9*
39 *(commencing with Section 10260), Chapter 21 (commencing with*
40 *Section 10370), and Chapter 2 (commencing with Section 11461.6)*

1 of Part 2, and the State Department of Education under Chapter
2 2 (commencing with Section 8200) of Part 6 of Division 1 of Title
3 1 of the Education Code.

4 ~~(d)~~

5 (i) If the United States Department of Health and Human
6 Services, Administration for Children and Families does not
7 approve the alternative methodology developed pursuant to this
8 section, the department shall develop and conduct a survey of the
9 market rates for childcare services.

10 (j) If the provisions of this section are in conflict with the
11 provisions of a memorandum of understanding reached pursuant
12 to Section 10426, the memorandum of understanding shall be
13 controlling without further legislative action, except that if such
14 provisions of a memorandum of understanding require the
15 expenditure of funds, the provisions shall not become effective
16 unless approved by the Legislature in the annual Budget Act.

17 SEC. 9. Section 10277 is added to the Welfare and Institutions
18 Code, to read:

19 10277. (a) On or before March 1, 2024, each county and
20 contractor that reimburses childcare providers for the provision
21 of state-funded subsidized childcare and development services
22 shall develop, implement, and publish a plan for timely payment
23 to childcare providers. The plan shall include all of the following:

24 (1) A provision requiring that, in accordance with Section 98.45
25 of Title 45 of the Code of Federal Regulations, childcare providers
26 shall be paid within 21 calendar days of the submission of either
27 of the following:

28 (A) A complete monthly attendance record or invoice, as defined
29 in subdivision (f) of Section 10227.5, for providers accepting
30 subsidy vouchers.

31 (B) Daily sign-in and sign-out sheets, as referenced in Section
32 18065 of Title 5 of the California Code of Regulations, for
33 providers participating in a family childcare home education
34 network.

35 (2) A schedule for the payment of services that shall be signed
36 by the childcare provider.

37 (3) A provision requiring that if a provider submits attendance
38 records or invoices for multiple children and not all individual
39 records or invoices within the submission include adequate
40 information to provide a payment, payments shall not be withheld

1 *for those records or invoices that include adequate information*
2 *to provide a payment.*

3 *(4) Procedures that establish clear processes and timelines to*
4 *resolve overpayment and underpayment issues, which shall include*
5 *provider written consent to recover any overpayment.*

6 *(5) A provision that if a county or contractor is unable to issue*
7 *reimbursement payments within 21 calendar days pursuant to the*
8 *requirement specified in paragraph (1) due to extenuating*
9 *circumstances, including, but not limited to, an emergency or*
10 *payment system malfunction, the impacted provider shall be*
11 *notified within a reasonable timeframe of the county or contractor*
12 *becoming aware of the circumstance causing the delay of*
13 *reimbursement payment.*

14 *(b) Counties and contractors shall publish the plans developed*
15 *pursuant to this section for childcare providers to access and*
16 *reference. The plans shall be published in documents available to*
17 *providers, such as provider handbooks and individual provider*
18 *agreements, as appropriate.*

19 *(c) The department shall support counties and contractors with*
20 *the development and implementation of the plans prepared*
21 *pursuant to this section and in compliance with the requirement*
22 *for timely payments. If the department becomes aware that a county*
23 *or contractor is not complying with the requirements of this section,*
24 *the department may issue a finding of noncompliance, and the*
25 *county or contractor may be subject to corrective action.*

26 *(d) A childcare provider may submit a monthly attendance*
27 *record or invoice, as defined in subdivision (f) of Section 10227.5,*
28 *without a parent's signature when the parent has not*
29 *communicated with the provider for a minimum of seven*
30 *consecutive days, the provider has notified the county or contractor*
31 *of the parent's lack of communication in accordance with Section*
32 *18066.5 of Title 5 of the California Code of Regulations, and the*
33 *county or contractor has documented the provider's unsuccessful*
34 *attempts to collect a signature.*

35 *(e) Notwithstanding the rulemaking provisions of the*
36 *Administrative Procedure Act (Chapter 3.5 (commencing with*
37 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
38 *Code), the department may implement and administer this section*
39 *by all-county letters, bulletins, or similar written instructions until*
40 *regulations are adopted.*

1 (f) The department shall initiate a rulemaking action to adopt
2 regulations implementing this section no later than July 1, 2026.

3 (g) If the provisions of this section are in conflict with the
4 provisions of a memorandum of understanding reached pursuant
5 to Section 10426, the memorandum of understanding shall be
6 controlling without further legislative action, except that if such
7 provisions of a memorandum of understanding require the
8 expenditure of funds, the provisions shall not become effective
9 unless approved by the Legislature in the annual Budget Act.

10 SEC. 10. Section 10277.1 is added to the Welfare and
11 Institutions Code, to read:

12 10277.1. (a) Funding shall be allocated to the State
13 Department of Social Services from funds in Schedule (3) of Item
14 5180-101-0001 of the Budget Act of 2023 and to the State
15 Department of Education from funds specified in Provision 8 of
16 Schedule (1) of Item 6100-194-0001 and Provision 7 of Schedule
17 (1) of 6100-196-0001 of the Budget Act of 2023 to provide a
18 once-per-month, per-child-served who is enrolled in subsidized
19 childcare cost of care plus rate.

20 (b) (1) Of the funding described in subdivision (a), the
21 Legislature hereby allocates funds to the State Department of
22 Social Services and the State Department of Education to provide
23 family childcare providers with the monthly cost of care plus rate
24 commencing January 1, 2024, and through June 30, 2025,
25 inclusive. The amount per child shall range between ninety-eight
26 dollars (\$98) and two hundred eleven dollars (\$211) per month
27 to be determined based on the family childcare provider type and
28 the region in which the family childcare provider is located
29 pursuant to paragraphs (2) and (3). The state shall provide the
30 amount of the monthly costs of care plus rate for all family
31 childcare providers serving children described in this paragraph
32 based on the number of subsidized children enrolled. This monthly
33 rate shall be issued to family childcare providers based on monthly
34 child enrollments for subsidized childcare and development and
35 state preschool programs.

36 (2) Per child rate amounts shall be as follows:

37 (A) For family childcare providers in the central region,
38 ninety-eight dollars (\$98) per each license-exempt family childcare
39 provider, and one hundred forty dollars (\$140) per each licensed
40 family childcare provider.

1 (B) For family childcare providers in the northern region,
2 ninety-nine dollars (\$99) per each license-exempt family childcare
3 provider, and one hundred forty-one dollars (\$141) per each
4 licensed family childcare provider.

5 (C) For family childcare providers in the southern region, one
6 hundred twelve dollars (\$112) per each license-exempt family
7 childcare provider, and one hundred sixty dollars (\$160) per each
8 licensed family childcare provider.

9 (D) For family childcare providers in the Los Angeles region,
10 one hundred nineteen dollars (\$119) per each license-exempt
11 family childcare provider, and one hundred seventy-one dollars
12 (\$171) per each licensed family childcare provider.

13 (E) For family childcare providers in the bay area region, one
14 hundred forty-eight dollars (\$148) per each license-exempt family
15 childcare provider, and two hundred eleven dollars (\$211) per
16 each licensed family childcare provider.

17 (3) Regions are defined as follows:

18 (A) The central region includes the Counties of Fresno, Inyo,
19 Kern, Kings, Madera, Mariposa, Merced, Monterey, Sacramento,
20 San Benito, San Joaquin, San Luis Obispo, Stanislaus, and Tulare.

21 (B) The northern region includes the Counties of Alpine,
22 Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,
23 Humboldt, Lake, Lassen, Mendocino, Modoc, Mono, Nevada,
24 Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity,
25 Tuolumne, Yolo, and Yuba.

26 (C) The southern region includes the Counties of Imperial,
27 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
28 and Ventura.

29 (D) The Los Angeles region includes the County of Los Angeles
30 only.

31 (E) The bay area region includes the Counties of Alameda,
32 Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa
33 Clara, Santa Cruz, Solano, and Sonoma.

34 (c) (1) Of the funding described in subdivision (a), the
35 Legislature hereby allocates funds to the State Department of
36 Social Services and the State Department of Education to provide
37 family childcare providers with a one-time payment. This payment
38 is due to providers no later than November 30, 2023. The payment
39 amounts shall be based on provider type pursuant to paragraph
40 (2). The one-time payment shall be applicable to all family

1 *childcare providers who were reimbursed for subsidized childcare*
2 *and development or state preschool program services in the month*
3 *of April 2023.*

4 *(2) One-time payment amounts shall be determined as follows:*

5 *(A) Five hundred dollars (\$500) per each license-exempt family*
6 *childcare provider.*

7 *(B) Two thousand five hundred dollars (\$2,500) per each family*
8 *childcare provider licensed to operate a small family daycare*
9 *home, as defined in subdivision (c) of Section 1596.78 of the Health*
10 *and Safety Code.*

11 *(C) Three thousand dollars (\$3,000) per each family childcare*
12 *provider licensed to operate a large family daycare home, as*
13 *defined in subdivision (b) of Section 1596.78 of the Health and*
14 *Safety Code.*

15 *(d) The monthly and one-time payments described in this section*
16 *shall be payable to family childcare providers operating or serving*
17 *programs pursuant to Chapter 3 (commencing with Section 10225)*
18 *of, Chapter 6 (commencing with Section 10235) of, Chapter 7*
19 *(commencing with Section 10240) of, Chapter 8 (commencing with*
20 *Section 10250) of, Chapter 9 (commencing with Section 10260)*
21 *of, or Chapter 21 (commencing with Section 10370) of, Part 1.8*
22 *of Division 9 of this code, or the Emergency Child Care Bridge*
23 *Program for Foster Children pursuant to Chapter 2 (commencing*
24 *with Section 11461.6) of Part 2 of this code, or Chapter 2*
25 *(commencing with Section 8200) of Part 6 of Division 1 of Title 1*
26 *of the Education Code.*

27 *(e) In addition to the monthly rates and one-time payments*
28 *described in this section, the State Department of Education and*
29 *the State Department of Social Services shall provide state*
30 *preschool programs, alternative payment and direct contract*
31 *programs, or any other agency designated to distribute payments*
32 *to these providers with a 10-percent administrative fee for*
33 *processing the monthly rates and a 5-percent administrative fee*
34 *for processing the one-time payments.*

35 *(f) The State Department of Education shall allocate funding*
36 *to California state preschool contracting agencies for distribution*
37 *of rates and payments pursuant to this section to the family*
38 *childcare providers participating in a state preschool program*
39 *family childcare home education network, and the State*
40 *Department of Social Services shall allocate funding to contracting*

1 agencies for distribution of rates and payments pursuant to this
2 section to family childcare providers participating in subsidized
3 childcare and development programs administered by the State
4 Department of Social Services.

5 (g) The State Department of Education and the State Department
6 of Social Services shall exchange any essential data necessary to
7 issue payments to family childcare providers.

8 (h) The state may designate another agency or agencies to
9 distribute the funds described in subdivision (d) to family childcare
10 providers. Funds allocated pursuant to this section shall be exempt
11 from the personal services contracting requirements of Article 4
12 (commencing with Section 19130) of Chapter 5 of Part 2 of
13 Division 5 of Title 2 of the Government Code, the Public Contract
14 Code and the State Contracting Manual, and shall not be subject
15 to the review or approval of the Department of General Services.

16 (i) For purposes of this section, a “family childcare provider”
17 means a provider who participates in a state-funded early care
18 and education program, as defined in subdivision (b) of Section
19 10421.

20 (j) Nothing in this section shall be construed to limit the
21 authority of childcare contractors and providers to pass on rates
22 and one-time payments pursuant to this section to their employees
23 in the form of compensation, including, but not limited to, salaries,
24 wages, and direct benefits.

25 (k) If the provisions of this section are in conflict with the
26 provisions of a memorandum of understanding reached pursuant
27 to Section 10426, the memorandum of understanding shall be
28 controlling without further legislative action, except that if such
29 provisions of a memorandum of understanding require the
30 expenditure of funds, the provisions shall not become effective
31 unless approved by the Legislature in the annual Budget Act.

32 SEC. 11. Section 10277.2 is added to the Welfare and
33 Institutions Code, to read:

34 10277.2. (a) Funding shall be allocated to the State
35 Department of Social Services from funds in Schedule (3) of Item
36 5180-101-0001 of the Budget Act of 2023 and to the State
37 Department of Education from funds specified in Provision 8 of
38 Schedule (1) of Item 6100-194-0001 and Provision 7 of Schedule
39 (1) of 6100-196-0001 of the Budget Act of 2023 to provide a

1 *once-per-month, per-child served who is enrolled in a subsidized*
2 *childcare program cost of care plus rate.*

3 *(b) (1) Of the funding described in subdivision (a), the*
4 *Legislature hereby allocates funds to the State Department of*
5 *Social Services and the State Department of Education to provide*
6 *centers with the monthly cost of care plus rate commencing*
7 *January 1, 2024, and through June 30, 2025, inclusive. The amount*
8 *per child shall range between one hundred forty dollars (\$140)*
9 *and two hundred eleven dollars (\$211), per month, to be*
10 *determined based on the region in which the center is located*
11 *pursuant to paragraphs (2) and (3). The state shall provide the*
12 *amount of the monthly cost of care plus rate for all centers serving*
13 *children described in this paragraph based on the number of*
14 *subsidized children enrolled. This monthly rate shall be issued to*
15 *centers based on monthly child enrollments for subsidized childcare*
16 *and development and state preschool programs.*

17 *(2) Per-child rate amounts shall be as follows:*

18 *(A) For centers in the central region, one hundred forty dollars*
19 *(\$140).*

20 *(B) For centers in the northern region, one hundred forty-one*
21 *dollars (\$141).*

22 *(C) For centers in the southern region, one hundred sixty dollars*
23 *(\$160).*

24 *(D) For centers in the Los Angeles region, one hundred*
25 *seventy-one dollars (\$171).*

26 *(E) For centers in the bay area region, two hundred eleven*
27 *dollars (\$211).*

28 *(3) Regions are defined as follows:*

29 *(A) The central region includes the Counties of Fresno, Inyo,*
30 *Kern, Kings, Madera, Mariposa, Merced, Monterey, Sacramento,*
31 *San Benito, San Joaquin, San Luis Obispo, Stanislaus, and Tulare.*

32 *(B) The northern region includes the Counties of Alpine,*
33 *Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,*
34 *Humboldt, Lake, Lassen, Mendocino, Modoc, Mono, Nevada,*
35 *Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity,*
36 *Tuolumne, Yolo, and Yuba.*

37 *(C) The southern region includes the Counties of Imperial,*
38 *Orange, Riverside, San Bernardino, San Diego, Santa Barbara,*
39 *and Ventura.*

1 (D) *The Los Angeles region includes the County of Los Angeles*
2 *only.*

3 (E) *The bay area region includes the Counties of Alameda,*
4 *Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa*
5 *Clara, Santa Cruz, Solano, and Sonoma.*

6 (c) *Of the funding described in subdivision (a), the Legislature*
7 *hereby allocates funds to the State Department of Social Services*
8 *and the State Department of Education to provide centers with a*
9 *one-time payment amount of three thousand dollars (\$3,000) in*
10 *the 2023–24 fiscal year. The three-thousand-dollar (\$3,000)*
11 *payment shall be provided to all centers who provided subsidized*
12 *childcare and development or state preschool program services*
13 *in the month of April 2023.*

14 (d) *The monthly and one-time payments described in this section*
15 *shall be payable to centers operating or serving programs pursuant*
16 *to Chapter 3 (commencing with Section 10225) of, migrant*
17 *childcare and development programs pursuant to Chapter 6*
18 *(commencing with Section 10235) of, a general childcare and*
19 *development program pursuant to Chapter 7 (commencing with*
20 *Section 10240) of, a family childcare home education network*
21 *pursuant to Chapter 8 (commencing with Section 10250) of,*
22 *childcare and development services for children with special needs*
23 *pursuant to Chapter 9 (commencing with Section 10260) of, or*
24 *the CalWORKs Stage 1, Stage 2, or Stage 3 program pursuant to*
25 *Chapter 21 (commencing with Section 10370) of, Part 1.8 of*
26 *Division 9 of this code, or the Emergency Child Care Bridge*
27 *Program for Foster Children pursuant to Chapter 2 (commencing*
28 *with Section 11461.6) of Part 2 of this code, or Chapter 2*
29 *(commencing with Section 8200) of Part 6 of Division 1 of Title 1*
30 *of the Education Code.*

31 (e) *In addition to the monthly rates and one-time payments*
32 *described in this section, the State Department of Education and*
33 *the State Department of Social Services shall provide contractors,*
34 *or any other agency designated to distribute payments to these*
35 *centers, with a 10-percent administrative fee for processing the*
36 *monthly rates and a 5-percent administrative fee for processing*
37 *the one-time payments.*

38 (f) *The State Department of Education shall allocate funding*
39 *for distribution of payments to state preschool program*
40 *contractors, and the State Department of Social Services shall*

1 allocate funding for distribution of payments to contractors
2 participating in State Department of Social Services subsidized
3 childcare and development programs.

4 (g) The State Department of Education and the State Department
5 of Social Services shall exchange any essential data necessary to
6 issue payments to centers.

7 (h) The state may designate another agency or agencies to
8 distribute the funds described in subdivision (c) to centers.
9 Contracts or grants awarded pursuant to this section shall be
10 exempt from the personal services contracting requirements of
11 Article 4 (commencing with Section 19130) of Chapter 5 of Part
12 2 of Division 5 of Title 2 of the Government Code. Contracts or
13 grants awarded pursuant to this section shall be exempt from the
14 Public Contract Code and the State Contracting Manual and shall
15 not be subject to the review or approval of the Department of
16 General Services.

17 (i) Nothing in this section shall be construed to limit the
18 authority of childcare contractors and providers to pass on rates
19 and flat-rate one-time payments pursuant to this section to their
20 employees in the form of compensation, including, but not limited
21 to, salaries, wages, and direct benefits.

22 SEC. 12. Section 10277.3 is added to the Welfare and
23 Institutions Code, to read:

24 10277.3. (a) (1) To support family childcare providers, as
25 defined in subdivision (b) of Section 10421, and encourage their
26 participation in training, forty million dollars (\$40,000,000) was
27 previously appropriated for the establishment of the Joint Child
28 Care Providers United-State of California Training Partnership
29 Fund pursuant to subdivision (b) of Section 264 of Chapter 116
30 of the Statutes of 2021.

31 (2) Effective July 1, 2024, and upon full ratification of the
32 memorandum of understanding between the Child Care Providers
33 United - California and the State of California, funding shall be
34 allocated to the State Department of Social Services from funds
35 in Schedule (3) of Item 5180 of the Budget Act of 2024 to make a
36 single additional contribution of up to fifteen million dollars
37 (\$15,000,000) to the fund described in paragraph (1) within 90
38 days of receipt of an annual report of the fund's expenditures to
39 restore the fund's balance to fifteen million dollars (\$15,000,000)
40 if the remaining balance is less than that amount.

1 (3) *Thirty days prior to making the additional contribution*
2 *specified in paragraph (2), the State Department of Social Services*
3 *and the Department of Finance shall provide a notice to the Senate*
4 *Health and Human Services budget subcommittees, Assembly and*
5 *Senate Education budget subcommittees, and the Legislative*
6 *Analyst's Office of the intended amount of the additional*
7 *contribution for purposes of implementing paragraph (2).*

8 (b) *If the provisions of this section are in conflict with the*
9 *provisions of a memorandum of understanding reached pursuant*
10 *to Section 10426, the memorandum of understanding shall be*
11 *controlling without further legislative action, except that if such*
12 *provisions of a memorandum of understanding require the*
13 *expenditure of funds, the provisions shall not become effective*
14 *unless approved by the Legislature in the annual Budget Act.*

15 SEC. 13. *Section 10277.4 is added to the Welfare and*
16 *Institutions Code, to read:*

17 10277.4. (a) (1) *One hundred million one hundred thousand*
18 *dollars (\$100,100,000) was previously appropriated for the*
19 *establishment and administration of the Child Care Providers*
20 *United - California (CCPU) Workers Health Care Fund pursuant*
21 *to Schedule 3 of Item 5180-101-0001 of the Budget Act of 2022*
22 *for the purpose of providing health care benefits to family childcare*
23 *providers, as defined in subdivision (b) of Section 10421.*

24 (2) *In accordance with the memorandum of understanding*
25 *between CCPU and the State of California, CCPU shall provide*
26 *the state with an annual report to detail the distribution of funds*
27 *from the prior year and any remaining balance.*

28 (3) *Effective April 1, 2024, funding shall be allocated to the*
29 *State Department of Social Services from funds in Schedule (3) of*
30 *Item 5180 of the Budget Act of 2023 to make a single additional*
31 *contribution to restore the balance to one hundred million dollars*
32 *(\$100,000,000) if the remaining balance reported in the annual*
33 *report is less than that amount.*

34 (4) *Thirty days prior to making the additional contribution*
35 *specified in paragraph (3), the State Department of Social Services*
36 *and the Department of Finance shall provide a notice to the Senate*
37 *Health and Human Services budget subcommittees, Assembly and*
38 *Senate Education budget subcommittees, and the Legislative*
39 *Analyst's Office of the intended amount of the additional*
40 *contribution for purposes of implementing paragraph (3).*

1 ***(b) If the provisions of this section are in conflict with the***
2 ***provisions of a memorandum of understanding reached pursuant***
3 ***to Section 10426, the memorandum of understanding shall be***
4 ***controlling without further legislative action, except that if such***
5 ***provisions of a memorandum of understanding require the***
6 ***expenditure of funds, the provisions shall not become effective***
7 ***unless approved by the Legislature in the annual Budget Act.***

8 ***SEC. 14. Section 10277.5 is added to the Welfare and***
9 ***Institutions Code, to read:***

10 ***10277.5. (a) One hundred thousand dollars (\$100,000) is***
11 ***hereby appropriated from the General Fund to the State***
12 ***Department of Social Services in the 2023–24 fiscal year for a***
13 ***one-time contribution payable to Child Care Provider United –***
14 ***California (CCPU), or its designee, for the establishment of the***
15 ***CCPU Retirement Trust.***

16 ***(b) Eighty million dollars (\$80,000,000) is hereby appropriated***
17 ***from the General Fund to the State Department of Social Services***
18 ***in the 2023–24 fiscal year for a lump-sum contribution to the trust***
19 ***established pursuant to subdivision (a) for the purpose of providing***
20 ***retirement benefits to family childcare providers, as defined in***
21 ***subdivision (b) of Section 10421. This appropriation shall not***
22 ***require the state to assume any administrative or fiduciary***
23 ***responsibilities related to the trust, which shall be the sole***
24 ***responsibilities of CCPU and its designated trust administrator.***

25 ***(c) In accordance with the memorandum of understanding***
26 ***between CCPU and the State of California, CCPU shall provide***
27 ***the state with an annual report to detail the distribution of funds***
28 ***from the prior year and any remaining balance.***

29 ***(d) (1) Effective July 1, 2024, funding shall be allocated to the***
30 ***State Department of Social Services from funds in Schedule (3) of***
31 ***Item 5180 of the Budget Act of 2024 to make a single additional***
32 ***contribution to the trust established pursuant to subdivision (a) to***
33 ***restore the balance to eighty million dollars (\$80,000,000) within***
34 ***90 days of receiving the annual report if the remaining balance***
35 ***reported in the annual report is less than that amount.***

36 ***(2) Thirty days prior to making the additional contribution***
37 ***specified in paragraph (1), the State Department of Social Services***
38 ***and the Department of Finance shall provide a notice to the Senate***
39 ***Health and Human Services budget subcommittees, Assembly and***
40 ***Senate Education budget subcommittees, and the Legislative***

1 *Analyst's Office of the intended amount of the additional*
2 *contribution for purposes of implementing paragraph (1).*

3 *(e) If the provisions of this section are in conflict with the*
4 *provisions of a memorandum of understanding reached pursuant*
5 *to Section 10426, the memorandum of understanding shall be*
6 *controlling without further legislative action, except that if such*
7 *provisions of a memorandum of understanding require the*
8 *expenditure of funds, the provisions shall not become effective*
9 *unless approved by the Legislature in the annual Budget Act.*

10 *SEC. 15. Section 10491.1 of the Welfare and Institutions Code*
11 *is amended to read:*

12 10491.1. (a) (1) Except as authorized by paragraph (3), a
13 program shall not do either of the following:

14 (A) Expel or unenroll a child because of a child's behavior.

15 (B) Persuade or encourage a child's parents or legal guardians
16 to voluntarily unenroll from the program due to a child's behavior.

17 (2) (A) If a child exhibits persistent and serious behaviors, the
18 program shall expeditiously pursue and document reasonable steps,
19 including, but not limited to, consulting with the child's parents
20 or legal guardians and teacher, and, if available, engaging an early
21 childhood mental health consultant, to maintain the child's safe
22 participation in the program. The program shall inform the parents
23 or legal guardians of a child exhibiting persistent and serious
24 behaviors of the process described in this section in writing,
25 including a description of the behaviors and the program's plan
26 for maintaining the child's safe participation in the program.

27 (B) (i) If the child has an individualized family service plan or
28 individualized education program, the program, with written
29 parental consent, shall contact the agency responsible for the
30 individualized family service plan or individualized education
31 program to seek consultation on serving the child.

32 (ii) The program shall consider, if appropriate, completing a
33 comprehensive screening to identify the needs of the child,
34 including, but not limited to, screening the child's social and
35 emotional development, referring the child's parents or legal
36 guardians to community resources, and implementing behavior
37 supports within the program.

38 (3) If a program has expeditiously pursued and documented
39 reasonable steps to maintain the child's safe participation in the
40 program and determines, in consultation with the parents or legal

1 guardians of the child, the child's teacher, and, if applicable, the
2 local agency responsible for implementing the federal Individuals
3 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), that
4 the child's continued enrollment would present a serious safety
5 threat to the child or other enrolled children, it shall refer the
6 parents or legal guardians to other potentially appropriate
7 placements, the local childcare resource and referral agency, or
8 other referral service available in the local community, and, to the
9 greatest extent possible, support direct transition to a more
10 appropriate placement. The program may then unenroll the child.

11 (4) A program shall have up to 180 days to complete the process
12 described in paragraphs (2) and (3).

13 (b) (1) Except as provided in paragraphs (2), (3), and (4), a
14 program shall not do either of the following:

15 (A) Suspend a child due to a child's behavior.

16 (B) Encourage or persuade a child's parents or legal guardians
17 to prematurely pick up a child due to a child's behavior before the
18 program day ends.

19 (2) Suspension shall only be used as a last resort in extraordinary
20 circumstances when there is a serious safety threat that cannot be
21 reduced or eliminated without removal. To the greatest extent
22 possible, a program shall endeavor to ensure the full participation
23 of enrolled children in all program activities.

24 (3) Before a program determines that suspension is necessary,
25 the program shall collaborate with the child's parents or legal
26 guardians and use appropriate community resources, as needed,
27 to determine no other reasonable option is appropriate, and provide
28 written notice to the child's parents or legal guardians pursuant to
29 paragraph (4) of subdivision (c).

30 (4) If suspension is deemed necessary, a program shall help the
31 child return to full participation in all program activities as quickly
32 as possible while ensuring child safety by doing all of the
33 following:

34 (A) Continuing to engage with the parents or legal guardians
35 and continuing to use appropriate community resources.

36 (B) Developing a written plan to document the action and
37 supports needed.

38 (C) Providing referrals to appropriate community services.

39 (D) If the child has an individualized family service plan or
40 individualized education program, the program, with written

1 parental consent, shall contact the agency responsible for the
2 individualized family service plan or individualized education
3 program to seek consultation on serving the child.

4 (c) (1) The State Department of Social Services shall,
5 commencing July 1, 2023, include in each contract for service with
6 a program the limitations on expulsion and suspension provided
7 in this section.

8 (2) Commencing July 1, 2023, upon enrollment of a child, a
9 program shall notify the child's parents or legal guardians of the
10 limitations on disenrollment, including expulsion and suspension
11 provided in this section. This notification shall be in writing and
12 shall inform parents on how they may file an appeal to the
13 department in the event of the expulsion or suspension of a child.

14 (3) Commencing July 1, 2023, in the event a program suspends
15 or expels a child pursuant to this section, the program shall issue
16 the child's parent or guardian a written "Notice of Action,
17 Recipient of Services," as described in Section 18095 of Title 5
18 of the California Code of Regulations, with the exception that the
19 effective date of the action may be no less than 24 hours after
20 service of the notice. The agency shall, at the same time, inform
21 the parent or guardian in writing of their right to file an appeal of
22 the action directly with the department no later than 14 calendar
23 days after receipt of the notice. Because the action to suspend or
24 expel a child involves persistent and serious behaviors that impact
25 the safety of children, the action shall not be stayed during the
26 pendency of any appeal.

27 (d) Notwithstanding the rulemaking provisions of the
28 Administrative Procedure Act (Chapter 3.5 (commencing with
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
30 Code), until regulations are filed with the Secretary of State, the
31 State Department of Social Services shall, in consultation with the
32 State Department of Education, on or before December 31, 2023,
33 implement this chapter through all-county letter or similar
34 instructions until regulations are adopted.

35 (e) A program shall maintain records on, and, beginning on July
36 1, 2030, and subject to an appropriation by the Legislature for this
37 purpose, the State Department of Social Services shall annually
38 collect from contracting agencies, all of the following information:

1 (1) The number of times the process described in paragraph (2)
2 of subdivision (a) was initiated during a program year, and the
3 outcome of each reported instance.

4 (2) The number of times the process described in paragraphs
5 (3) and (4) of subdivision (b) was initiated during a program year,
6 and the outcome of each reported instance, including, if applicable,
7 how long a child was excluded from the program.

8 (3) The data collected pursuant to paragraphs (1) and (2) shall
9 include for each child, at a minimum, age, sex, race and ethnicity,
10 foster status, home language, disability, and whether the child has
11 an individualized family service plan or an individualized education
12 program.

13 (f) (1) Subject to an appropriation by the Legislature for this
14 purpose, no later than January 1, 2031, and annually thereafter,
15 the State Department of Social Services shall publish aggregate
16 data on how many times during the most recent program year the
17 processes described in paragraph (2) of subdivision (a) and
18 paragraphs (3) and (4) of subdivision (b) were initiated and the
19 outcomes of the processes, disaggregated by student demographic,
20 as required, and how many appeals or complaints the State
21 Department of Social Services received from parents or legal
22 guardians regarding expulsion and suspension. The data shall be
23 made available at a statewide and countywide level and shall be
24 disaggregated by age, sex, race and ethnicity, foster status, home
25 language, disability, and assignment of an individualized family
26 service plan or individualized education program, as applicable,
27 pursuant to all applicable federal and state privacy protections.

28 (2) Data collection pursuant to subdivision (e), and reporting
29 pursuant to this subdivision, by the State Department of Social
30 Services shall, to the greatest extent possible, be undertaken within
31 the framework of the department's existing data systems.

32 (g) The State Department of Social Services shall create
33 guidelines for offering additional support and requiring additional
34 staff training for programs with exceptionally high numbers of
35 suspension and expulsion reported pursuant to this section.

36 (h) (1) This section shall not apply to licensed family childcare
37 providers until the joint labor-management committee established
38 pursuant to paragraph (2) of subdivision (a) of Section 10424.5
39 makes recommendations for potential changes related to
40 suspensions and expulsions.

1 (2) *Within 10 calendar days of the committee recommendations*
2 *being completed, the State Department of Social Services and State*
3 *Department of Education shall provide the committee*
4 *recommendations to the Senate Health and Human Services budget*
5 *subcommittees, Assembly and Senate Education budget*
6 *subcommittees, and the Legislative Analyst's Office.*

7 SEC. 16. *Section 4 of Chapter 261 of the Statutes of 2021 is*
8 *amended to read:*

9 SEC. 4. (a) Notwithstanding the rulemaking provisions of the
10 Administrative Procedure Act (Chapter 3.5 (commencing with
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
12 Code) and Section 33308.5 of the Welfare and Institutions Code,
13 until regulations are filed with the Secretary of State, the State
14 Department of Education and the State Department of Social
15 Services, shall implement subdivision (c) of Section 8242 of the
16 Education Code and paragraph (1) of subdivision (c) of Section
17 10280 of the Welfare and Institutions Code, respectively, through
18 management bulletins or similar letters of instruction on or before
19 December 31, 2021.

20 (b) Notwithstanding any other law, including Sections 8244 and
21 8245 of the Education Code and Sections 10281.5 and 10283 of
22 the Welfare and Institutions Code, the Department of Education
23 and the State Department of Social Services shall examine the time
24 base and special criteria adjustment factors that impact center-based
25 contractors reimbursed pursuant to subparagraph (A) of paragraph
26 (1) of subdivision (c) of Section 8242 of the Education Code or
27 paragraph (1) of subdivision (c) of Section 10280 of the Welfare
28 and Institutions Code as of January 1, 2022. If the departments
29 determine that a change is needed to the time base or special criteria
30 adjustment factors, the change in adjustment factors shall not be
31 authorized prior to 30 days after the Director of Social Services,
32 with the concurrence of the Superintendent of Public Instruction,
33 notifies the Joint Legislative Budget Committee, in writing, of the
34 purpose of the change in adjustment factors and the justification
35 for the change. The Chairperson of the Joint Legislative Budget
36 Committee, or the chairperson's designee, may shorten or waive
37 that 30-day period by written notification to the Director of Social
38 Services and the Superintendent of Public Instruction. The
39 Department of Education and the State Department of Social

1 Services shall implement the adjustment factors pursuant to
2 subdivision (a).

3 (c) The departments shall initiate a rulemaking action on or
4 before December 31, ~~2023~~, 2025.

5 *SEC. 17. Section 24 of Chapter 41 of the Statutes of 2023 is*
6 *repealed.*

7 ~~SEC. 24. (a) (1) Notwithstanding any other law, contracting~~
8 ~~agencies operating a migrant childcare and development program~~
9 ~~pursuant to Chapter 6 (commencing with Section 10235) of, a~~
10 ~~general child care and development program pursuant to Chapter~~
11 ~~7 (commencing with Section 10240) of, a family child care home~~
12 ~~education network program pursuant to Chapter 8 (commencing~~
13 ~~with Section 10250) of, or a child care and development services~~
14 ~~for children with special needs program pursuant to Chapter 9~~
15 ~~(commencing with Section 10260) of, Part 1.8 of Division 9 of~~
16 ~~the Welfare and Institutions Code shall be reimbursed according~~
17 ~~to paragraph (2), July 1, 2023, to September 30, 2023, inclusive,~~
18 ~~if the program is open and operating in accordance with their~~
19 ~~approved program calendar and remains open and offering services~~
20 ~~through the program year.~~

21 ~~(2) Reimbursement pursuant to paragraph (1) shall be 100~~
22 ~~percent of the contract maximum reimbursable amount or net~~
23 ~~reimbursable program costs, whichever is less, pursuant to guidance~~
24 ~~released by the State Department of Social Services.~~

25 ~~(b) (1) Notwithstanding any other law, contracting agencies~~
26 ~~operating a California state preschool program pursuant to Article~~
27 ~~2 (commencing with Section 8207) of Chapter 2 of Part 6 of~~
28 ~~Division 1 of Title 1 of the Education Code shall be reimbursed~~
29 ~~according to paragraph (2), July 1, 2023, to September 30, 2023,~~
30 ~~inclusive, if the program is open and operating in accordance with~~
31 ~~their approved program calendar and remains open and offering~~
32 ~~services through the program year.~~

33 ~~(2) Reimbursement pursuant to paragraph (1) shall be 100~~
34 ~~percent of the contract maximum reimbursable amount or net~~
35 ~~reimbursable program costs, whichever is less, pursuant to guidance~~
36 ~~released by the Superintendent of Public Instruction.~~

37 ~~(c) Twenty-two million dollars (\$22,000,000) shall be allocated~~
38 ~~from funds specified in Provision 22 of Item 5180-101-0001 of~~
39 ~~the Budget Act of 2023 to provide support, as described in~~
40 ~~paragraph (2) of subdivisions (a) and (b), July 1, 2023, to~~

1 September 30, 2023, inclusive, to alternative payment programs,
2 including migrant alternative payment programs, and to
3 state-subsidized childcare providers, including day care centers,
4 family daycare homes, and license-exempt providers, that serve
5 children through an alternative payment program, including a
6 migrant alternative payment program pursuant to Chapter 3
7 (commencing with Section 10225) of, migrant child care and
8 development programs pursuant to Chapter 6 (commencing with
9 Section 10235) of, a general child care and development program
10 pursuant to Chapter 7 (commencing with Section 10240) of, a
11 family child care home education network pursuant to Chapter 8
12 (commencing with Section 10250) of, child care and development
13 services for children with special needs pursuant to Chapter 9
14 (commencing with Section 10260) of, or the CalWORKs Stage 1,
15 Stage 2, or Stage 3 program pursuant to Chapter 21 (commencing
16 with Section 10370) of, Part 1.8 of Division 9 of the Welfare and
17 Institutions Code, or providers that serve children through the
18 Emergency Child Care Bridge Program for Foster Children
19 pursuant to Section 11461.6 of the Welfare and Institutions Code.

20 *SEC. 18. (a) (1) Funding shall be allocated from funds*
21 *specified in Schedule (3) of Item 5180-101-0001 of the Budget Act*
22 *of 2023 to provide support, as described in paragraph (2), through*
23 *June 30, 2025, to counties, alternative payment programs,*
24 *including migrant alternative payment programs, and to*
25 *state-subsidized childcare and development providers, including*
26 *licensed daycare centers, as defined in Section 1596.76 of the*
27 *Health and Safety Code, licensed family daycare homes, as defined*
28 *in Section 1596.78 of the Health and Safety Code, and*
29 *license-exempt providers, that serve children through an alternative*
30 *payment program, including a migrant alternative payment*
31 *program pursuant to Chapter 3 (commencing with Section 10225)*
32 *of, migrant childcare and development programs pursuant to*
33 *Chapter 6 (commencing with Section 10235) of, a general childcare*
34 *and development program pursuant to Chapter 7 (commencing*
35 *with Section 10240) of, a family childcare home education network*
36 *pursuant to Chapter 8 (commencing with Section 10250) of,*
37 *childcare and development services for children with special needs*
38 *pursuant to Chapter 9 (commencing with Section 10260) of, or*
39 *the CalWORKs Stage 1, Stage 2, or Stage 3 program pursuant to*
40 *Chapter 21 (commencing with Section 10370) of, Part 1.8 of*

1 *Division 9 of the Welfare and Institutions Code, or the Emergency*
2 *Child Care Bridge Program for Foster Children pursuant to*
3 *Chapter 2 (commencing with Section 11461.6) of Part 2 of Division*
4 *9 of the Welfare and Institutions Code.*

5 *(2) Notwithstanding subdivision (d) of Section 10227.5 of the*
6 *Welfare and Institutions Code, reimbursement of childcare*
7 *providers, including license-exempt providers, shall be based on*
8 *families' certified need, as follows:*

9 *(A) Providers shall be reimbursed based on the maximum*
10 *authorized hours of care, regardless of attendance.*

11 *(B) For families certified for a variable schedule, providers*
12 *shall be reimbursed based on the maximum authorized hours of*
13 *care.*

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

17 *(b) (1) Contracting agencies operating a migrant childcare*
18 *and development program pursuant to Chapter 6 (commencing*
19 *with Section 10235) of, a general childcare and development*
20 *program pursuant to Chapter 7 (commencing with Section 10240)*
21 *of, a family childcare home education network program pursuant*
22 *to Chapter 8 (commencing with Section 10250) of, or a childcare*
23 *and development services for children with special needs program*
24 *pursuant to Chapter 9 (commencing with Section 10260) of, Part*
25 *1.8 of Division 9 of the Welfare and Institutions Code shall be*
26 *reimbursed according to paragraph (2) if the program is open and*
27 *operating in accordance with their approved program calendar*
28 *and remains open and offering services through the program year.*

29 *(2) Reimbursement to contracting agencies pursuant to*
30 *paragraph (1) shall be 100 percent of the contract maximum*
31 *reimbursable amount or net reimbursable program costs,*
32 *whichever is less, pursuant to guidance released by the State*
33 *Department of Social Services.*

34 *(c) Notwithstanding the rulemaking provisions of the*
35 *Administrative Procedure Act (Chapter 3.5 (commencing with*
36 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
37 *Code), the State Department of Social Services may implement*
38 *and administer this section by all-county letters, bulletins, or*
39 *similar written instructions without taking any regulatory action.*

1 (d) If the provisions of this section are in conflict with the
2 provisions of a memorandum of understanding reached pursuant
3 to Section 10426 of the Welfare and Institutions Code, the
4 memorandum of understanding shall be controlling without further
5 legislative action, except that if such provisions of a memorandum
6 of understanding require the expenditure of funds, the provisions
7 shall not become effective unless approved by the Legislature in
8 the annual Budget Act.

9 SEC. 19. (a) The Legislature hereby approves the agreement
10 dated June 30, 2023, entered into by the Governor and Child Care
11 Providers United - California, in its sole capacity as the certified
12 provider organization representing family childcare providers, as
13 defined in Section 10421 of the Welfare and Institutions Code.
14 This subdivision shall be limited to the terms specified in the
15 agreement and shall not be interpreted to expand upon or change
16 the agreement.

17 (b) The provisions of the agreement prepared pursuant to
18 Section 10426 of the Welfare and Institutions Code and entered
19 into by the Governor and Child Care Providers United - California,
20 dated June 30, 2023, that require the expenditure of funds or
21 legislative action to permit their implementation, are hereby
22 approved by the Legislature for the purposes of subdivision (b) of
23 Section 10426.

24 SEC. 20. This act is a bill providing for appropriations related
25 to the Budget Bill within the meaning of subdivision (e) of Section
26 12 of Article IV of the California Constitution, has been identified
27 as related to the budget in the Budget Bill, and shall take effect
28 immediately.

29 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
30 ~~changes, relating to the Budget Act of 2023.~~