

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 24, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2759

Introduced by Assembly Member Jones

(Principal coauthor: Senator Steinberg)

**(Coauthors: Assembly Members Brownley, Coto, Huffman, Laird,
Mullin, and Nunez)**

February 22, 2008

An act to amend Sections 8208, 8235, 8236, 8237, 8238, 8238.1, 8238.3, 8238.4, 8238.5, 8240, 8244, 8250.5, 8264.5, and 8266.1 of, to amend the heading of Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to amend the heading of Article 8 (commencing with Section 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of, to add Section 8236.1 to, to repeal Section 8238.6 of, and to repeal and add ~~Sections 8238.4 and~~ *Section* 8239 of, the Education Code, relating to child care and development services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Jones. State preschool programs: reform.

(1) Existing law requires the Superintendent of Public Instruction to administer state preschool programs, including part-day and preschool appropriate programs for prekindergarten children 3 to 5 years of age, inclusive, in educational development, health services, social services, nutritional services, parent education and participation, evaluation, and staff development.

This bill would recast those provisions as California state preschool programs. The bill would recast the general child care and development programs as the center child care and development programs and would include full-day programs within these provisions. The bill would specify that the California state preschool program is available to ~~three-year-old~~ 3-year-old and ~~four-year-old~~ 4-year-old children, as defined.

(2) Existing law establishes ~~as a~~ schedule for expenditure of prescribed funds appropriated pursuant to the Budget Act of 2006 *and the Budget Act of 2005*, for child development in preschool programs.

~~This bill would repeal that provision. The bill would also repeal a provision that authorizes the Superintendent to expend certain funds appropriated in the Budget Act of 2005 delete these provisions, and would establish a priority when offering funding under a new competitive bidding process after January 1, 2008, when prescribed funding is not sufficient.~~

(3) Existing law requires the Superintendent and the State Department of Education to administer prekindergarten and family literacy programs in accordance with specified funding and other requirements.

This bill would revise those requirements and would provide for the allocation of funds upon appropriation in the annual Budget Act or another statute. The bill would authorize the Superintendent to transfer funds appropriated on and after January 1, 2009, between center child care and development programs and the California state preschool program. The bill would require the State Department of Education to annually monitor funding for child care and development programs for infants and toddlers, and would require the department to report on specified matters to the Department of Finance and the Legislature every 3 years.

(4) Existing law establishes an enrollment priority for state preschool program services.

This bill would revise the enrollment priority.

(5) Existing law requires certain entities operating child care and development programs to employ a program director, and authorizes the Superintendent to waive the qualifications for the program director under specified circumstances.

This bill would recast those provisions to replace references to general child care and development programs and to campus childcare and development programs with references to center childcare and development programs, and would delete obsolete cross-references.

(6) Existing law establishes reimbursement rates for child care and development program providers and requires the Superintendent to establish a fee schedule for families utilizing child care services under these provisions.

This bill would revise those reimbursement rates for California state preschool program providers and would require fees to be assessed and collected for families with children in full-day preschool programs pursuant to the fee schedule provisions.

(7) The bill would become operative on July 1, 2009, and only if SB 1629 of the 2007–08 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2009.

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

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

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

3 (a) Learning begins at the earliest stages of life and research
4 shows that preschool is a proven investment in children’s academic
5 success and their success later in life. A high-quality preschool
6 system would benefit California children, the state’s systems of
7 public and higher education, its families and students, and its
8 economy overall.

9 (b) Effective preschool provides eager young learners with early
10 academic and social skills that prepare them for later learning.
11 Developing these skills requires developmentally appropriate,
12 intentional instruction from skilled teachers.

13 (c) Unfortunately, too many children are turned away from
14 preschool, and the children who lack access to preschool are
15 disproportionately children of color, children whose home language
16 is not English, and children whose parents did not graduate from
17 high school. Research has shown that only one-half of all eligible
18 children in California are enrolled in a state preschool or the federal
19 Head Start Program.

20 (d) Currently, California’s preschool programs consist of both
21 state and federally funded programs for the provision of part-day
22 and full-day preschool and child care.

23 (e) According to the National Institute of Early Education
24 Research, California’s state preschool programs meet only four of

1 10 benchmarks for quality preschool. A vast body of research
2 shows that only high-quality preschool results in the child outcomes
3 and cost-benefits widely attributed to preschool.

4 (f) The myriad of state child development programs that serve
5 children 3 to 5 years of age, inclusive, are unnecessarily complex;
6 programs are not rewarded or given enough support to achieve the
7 high-quality learning environments that our most disadvantaged
8 children need and deserve.

9 (g) In order to take full advantage of the integral role that a
10 quality preschool system plays in helping prepare children for
11 school, which would benefit the state's most vulnerable pupils and
12 children from low-income families, including English language
13 learners, California must create a more coherent and efficient
14 publicly funded preschool program and lay the groundwork for
15 high quality. Consolidating and streamlining the state's preschool
16 program within existing revenues and expenditures and creating
17 a system that rewards programs that provide higher quality learning
18 environments would greatly increase California's ability to bridge
19 the achievement gap.

20 (h) Making the necessary investments to expand the state's
21 preschool system while the state faces a budget shortfall will be
22 difficult, but important steps can be taken now to put in place the
23 framework for a high-quality ~~prekindergarten~~ *preschool* system
24 upon which future expansion can be built.

25 SEC. 2. Section 8208 of the Education Code is amended to
26 read:

27 8208. As used in this chapter:

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

33 (b) "Alternative payment program" means a local government
34 agency or nonprofit organization that has contracted with the
35 department pursuant to Section 8220.2 to provide alternative
36 payments and to provide support services to parents and providers.

37 (c) "Applicant or contracting agency" means a school district,
38 community college district, college or university, county
39 superintendent of schools, county, city, public agency, private
40 nontax-exempt agency, private tax-exempt agency, or other entity

1 that is authorized to establish, maintain, or operate services
2 pursuant to this chapter. Private agencies and parent cooperatives,
3 duly licensed by law, shall receive the same consideration as any
4 other authorized entity with no loss of parental decisionmaking
5 prerogatives as consistent with the provisions of this chapter.

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

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

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

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

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

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

- 33 (1) Center child care and development.
- 34 (2) Migrant child care and development.
- 35 (3) Child care provided by the California School Age Families
36 Education Program (Article 7.1 (commencing with Section 54740)
37 of Chapter 9 of Part 29).
- 38 (4) California state preschool program.
- 39 (5) Resource and referral.

1 (6) Child care and development services for children with
2 exceptional needs.

3 (7) Family child care home education network.

4 (8) Alternative payment.

5 (9) Schoolage community child care.

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

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

16 (l) “Children with exceptional needs” means either of the
17 following:

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

30 (2) Children ages 3 to 21 years, inclusive, who have been
31 determined to be eligible for special education and related services
32 by an individualized education program team according to the
33 special education requirements contained in Part 30 (commencing
34 with Section 56000), and who meet eligibility criteria described
35 in Section 56026 and Sections 56333 to 56338, inclusive, and
36 Sections 3030 and 3031 of Title 5 of the California Code of
37 Regulations. These children shall have an active individualized
38 education program, shall be receiving early intervention services
39 or appropriate special education and related services, and shall be
40 children who require the special attention of adults in a child care

1 setting. These children include children with mental retardation,
2 hearing impairments (including deafness), speech or language
3 impairments, visual impairments (including blindness), serious
4 emotional disturbance (also referred to as emotional disturbance),
5 orthopedic impairments, autism, traumatic brain injury, other health
6 impairments, or specific learning disabilities, who need special
7 education and related services consistent with paragraph (A) of
8 subsection (3) of Section 1401 of Title 20 of the United States
9 Code.

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

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

28 (o) “Elementary school,” as contained in Section 425 of Title
29 20 of the United States Code (the National Defense Education Act
30 of 1958, Public Law 85-864, as amended), includes early childhood
31 education programs and all child development programs, for the
32 purpose of the cancellation provisions of loans to students in
33 institutions of higher learning.

34 (p) “Family child care home education network” means an entity
35 organized under law that contracts with the department pursuant
36 to Section 8245 to make payments to licensed family child care
37 home providers and to provide educational and support services
38 to those providers and to children and families eligible for
39 state-subsidized child care and development services. A family

1 child care home education network may also be referred to as a
2 family child care home system.

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

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

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

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

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

20 (r) “Higher educational institutions” means the Regents of the
21 University of California, the Trustees of the California State
22 University, the Board of Governors of the California Community
23 Colleges, and the governing bodies of any accredited private
24 nonprofit institution of postsecondary education.

25 (s) “Intergenerational staff” means persons of various
26 generations.

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

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

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

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

39 (v) “Program director” means a person who, pursuant to Sections
40 8244 and 8360.1, is qualified to serve as a program director.

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

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

11 (y) “Severely disabled children” are children with exceptional
12 needs from birth to 21 years of age, inclusive, who require intensive
13 instruction and training in programs serving pupils with the
14 following profound disabilities: autism, blindness, deafness, severe
15 orthopedic impairments, serious emotional disturbances, or severe
16 mental retardation. “Severely disabled children” also include those
17 individuals who would have been eligible for enrollment in a
18 developmental center for handicapped pupils under Chapter 6
19 (commencing with Section 56800) of Part 30 as it read on January
20 1, 1980.

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

29 (aa) (1) “Site supervisor” means a person who, regardless of
30 his or her title, has operational program responsibility for a child
31 care and development program at a single site. A site supervisor
32 shall hold a permit issued by the Commission on Teacher
33 Credentialing that authorizes supervision of a child care and
34 development program operating in a single site. The Superintendent
35 may waive the requirements of this subdivision if the
36 superintendent determines that the existence of compelling need
37 is appropriately documented.

38 (2) For California state preschool programs, a site supervisor
39 may qualify under any of the provisions in this subdivision, or
40 may qualify by holding an administrative credential or an

1 administrative services credential. A person who meets the
2 qualifications of a site supervisor under both Section 8244 and
3 subdivision (e) of Section 8360.1 is also qualified under this
4 subdivision.

5 (ab) “Standard reimbursement rate” means that rate established
6 by the Superintendent pursuant to Section 8265.

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

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

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

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

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

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

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

32 (2) To undertake or retain a job.

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

37 (ai) “Three-year-old children” means children who will have
38 their third birthday on or before December 2 of the fiscal year in
39 which they are enrolled in a California state preschool program.

1 (aj) “Four-year-old children” means children who will have
2 their fourth birthday on or before December 2 of the fiscal year in
3 which they are enrolled in a California state preschool program.

4 (ak) “Interactive literacy activities” means activities in which
5 parents or guardians actively participate in facilitating the
6 acquisition by their children of prereading skills through guided
7 activities such as shared reading, learning the alphabet, and basic
8 vocabulary development.

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

12 SEC. 3. The heading of Article 7 (commencing with Section
13 8235) of Chapter 2 of Part 6 of Division 1 of Title 1 of the
14 Education Code is amended to read:

15
16 Article 7. California State Preschool Programs
17

18 SEC. 4. Section 8235 of the Education Code is amended to
19 read:

20 8235. (a) The Superintendent of Public Instruction shall
21 administer all California state preschool programs. Those programs
22 shall include, but not be limited to, part-day and full-day age,
23 culturally, linguistically, and developmentally appropriate programs
24 for three- and four-year old children in educational development,
25 health services, social services, nutritional services, parent
26 education and parent participation, evaluation, and staff
27 development. Preschool programs for which federal reimbursement
28 is not available shall be funded as prescribed by the Legislature
29 in the Budget Act, and unless otherwise specified by the
30 Legislature, shall not utilize federal funds made available through
31 Title XX of the Social Security Act (42 U.S.C. Sec. 1397).

32 (b) Three- and four-year-old children are eligible for the part-day
33 California state preschool program if the family meets at least one
34 of the criteria specified in paragraph (1) of subdivision (a) of
35 Section 8263.

36 (c) Notwithstanding any other provision of law, a part-day
37 California state preschool program may provide services to children
38 in families above the income eligibility threshold, as described in
39 Sections 8263 and 8263.1, after all eligible three- and four-year-old
40 children have been enrolled. No more than 10 percent of children

1 enrolled, calculated throughout the participating program's entire
2 contract, may be filled by children in families above the income
3 eligibility threshold.

4 (d) A part-day California state preschool program shall operate
5 for a minimum of (1) three hours per day, excluding time for ~~meals~~
6 ~~and~~ home-to-school transportation, and (2) *a minimum of* 175 days
7 per year, unless the contract specifies a lower ~~or higher~~ number
8 of days of operation.

9 (e) Three- and four-year-old children are eligible for full-day
10 California state preschool program services if the family meets at
11 least one of the criteria specified in paragraph (1) of subdivision
12 (a) of Section 8263, and the parents meet at least one of the criteria
13 specified in paragraph (2) of subdivision (a) of Section 8263.

14 (f) A full-day California state preschool program shall operate
15 (1) full time determined by the number of hours necessary to meet
16 the child care and development needs of families, and (2) a
17 minimum of ~~250~~ 246 days per year, unless the contract specifies
18 a lower number of days of operation.

19 (g) Fees shall be assessed and collected for families with
20 children in the full-day California state preschool program pursuant
21 to subdivisions (g) and (h) of Section 8263. *Fees shall not be*
22 *assessed for families whose children are enrolled in the part-day*
23 *California state preschool program.*

24 (h) Any agency described in subdivision (c) of Section 8208 as
25 an "applicant or contracting agency" is eligible to contract to
26 operate a California state preschool program.

27 SEC. 5. Section 8236 of the Education Code is amended to
28 read:

29 8236. (a) (1) Each applicant or contracting agency funded
30 pursuant to Section 8235 shall give first priority to three- or
31 four-year-old neglected or abused children who are recipients of
32 child protective services, or who are at risk of being neglected,
33 abused, or exploited upon written referral from a legal, medical,
34 or social service agency. If an agency is unable to enroll a child
35 in this first priority category, the agency shall refer the child's
36 parent or guardian to local resource and referral services so that
37 services for the child can be located.

38 (2) Notwithstanding Section 8263, after children in the first
39 priority category set forth in paragraph (1) are enrolled, each
40 agency funded pursuant to Section 8235 shall give priority to

1 eligible four-year-old children prior to enrolling eligible
2 three-year-old children. Each agency shall certify to the
3 Superintendent that enrollment priority is being given to eligible
4 four-year-old children.

5 (b) The following provisions apply to the award of new funding
6 for the expansion of the California state preschool program that is
7 appropriated by the Legislature for that purpose in any fiscal year:

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

14 (2) In awarding contracts for expansion pursuant to this
15 subdivision, the Superintendent, after taking into account the
16 geographic criteria established pursuant to Section 8279.3, and the
17 headquarters preferences and eligibility criteria relating to fiscal
18 or programmatic noncompliance established pursuant to Section
19 8261, shall give priority to applicant agencies that, in expending
20 the expansion funds, will be serving the highest percentage of
21 four-year-old children.

22 (c) *Nothing in this section shall be deemed to preclude a local*
23 *educational agency from subcontracting with an appropriate public*
24 *or private agency to operate a California state preschool program*
25 *and to apply for funds made available for the purposes of this*
26 *section. If a school district chooses not to operate or subcontract*
27 *for a California state preschool program, the Superintendent shall*
28 *work with the county office of education and other eligible agencies*
29 *to explore possible opportunities in contracting or alternative*
30 *subcontracting to provide a California state preschool program.*

31 ~~(e)~~

32 (d) Nothing in this section shall prevent eligible children who
33 are currently receiving services from continuing to receive those
34 services in future years pursuant to this chapter.

35 SEC. 6. Section 8236.1 is added to the Education Code, to
36 read:

37 8236.1. (a) Notwithstanding any other provision of law, the
38 Superintendent may transfer funds appropriated on and after
39 January 1, 2009, between center child care and development
40 programs and the California state preschool program for the

1 purpose of maximizing funds and ensuring that the needs of the
2 service population are met.

3 (b) The department, with data collected pursuant to Sections
4 8261.5 and 8265.5, Parts 98.70 and 98.71 of Title 45 of the Code
5 of Federal Regulations, shall annually monitor funding utilized in
6 center child care and development programs for infants and
7 toddlers, and hours of service provided in the California state
8 preschool program, and every three years, shall report to the
9 Department of Finance and to the Legislature a statewide summary
10 identifying the estimated funding utilized for infants and toddlers,
11 and the number of preschool age children receiving full-time
12 development services.

13 SEC. 7. Section 8237 of the Education Code is amended to
14 read:

15 8237. A part-day California state preschool program contracting
16 agency has 120 calendar days prior to the first day of the beginning
17 of the new preschool year to certify eligibility and enroll families
18 into their program. Subsequent to enrollment, a child shall be
19 deemed eligible for a part-day California state preschool program
20 for the remainder of the program year.

21 SEC. 8. Section 8238 of the Education Code is amended to
22 read:

23 8238. California state preschool programs located in the
24 attendance area of elementary schools ranked in deciles 1 to 3,
25 inclusive, of the most recent base Academic Performance Index
26 established by the Superintendent pursuant to Section 52056, that
27 receive funding for the literacy component based on the criteria
28 established by the Superintendent pursuant to paragraph (2) of
29 subdivision (c) of Section 8238.4, shall provide both of the
30 following:

31 (a) Age and developmentally appropriate activities for children
32 in participating classrooms that are designed to facilitate their
33 transition to kindergarten.

34 (b) Opportunities for parents and legal guardians to work with
35 their children on interactive literacy activities.

36 SEC. 9. Section 8238.1 of the Education Code is amended to
37 read:

38 8238.1. California state preschool programs located in the
39 attendance area of elementary schools ranked in deciles 1 to 3,
40 inclusive, of the most recent base Academic Performance Index

1 established by the Superintendent pursuant to Section 52056, that
2 receive funding for the literacy component based on the criteria
3 established by the Superintendent pursuant to paragraph (2) of
4 subdivision (c) of Section 8238.4, shall coordinate the provision
5 of all of the following:

6 (a) Parenting education for parents and legal guardians of
7 children in participating classrooms to support the development
8 by their children of literacy skills. Parenting education shall
9 include, but not be limited to, instruction in all of the following:

10 (1) Providing support for the educational growth and success
11 of their children.

12 (2) Improving the parent-school communications and parental
13 understanding of school structures and expectations.

14 (3) Becoming active partners with teachers in the education of
15 their children.

16 (b) Making referrals, as necessary, to providers of instruction
17 in adult education and English as a second language in order to
18 improve the academic skills of parents and legal guardians of
19 children in participating classrooms.

20 SEC. 10. Section 8238.3 of the Education Code is amended to
21 read:

22 8238.3. California state preschool programs located in the
23 attendance area of elementary schools in deciles 1 to 3, inclusive,
24 based on the most recent base Academic Performance Index
25 established by the Superintendent pursuant to Section 52056, that
26 receive funding for the literacy component based on the criteria
27 established by the Superintendent pursuant to paragraph (2) of
28 subdivision (c) of Section 8238.4, shall provide staff development
29 for teachers in participating classrooms that includes, but is not
30 limited to, all of the following:

31 (a) Development of a pedagogical knowledge including, but
32 not limited to, improved instructional strategies.

33 (b) Knowledge and application of developmentally appropriate
34 assessments of the prereading skills of children in participating
35 classrooms.

36 (c) Information on working with families, including the use of
37 on site coaching, for guided practice in interactive literacy
38 activities.

39 ~~SEC. 11. Section 8238.4 of the Education Code is repealed.~~

1 ~~SEC. 12. Section 8238.4 is added to the Education Code, to~~
2 ~~read:~~

3 ~~8238.4. (a) When funds appropriated for the California state~~
4 ~~preschool programs that are located in the attendance area of~~
5 ~~elementary schools ranked in deciles 1 to 3, inclusive, of the most~~
6 ~~recent base Academic Performance Index established by the~~
7 ~~Superintendent pursuant to Section 52056, that receive funding~~
8 ~~for the literacy component based on the criteria established by the~~
9 ~~Superintendent pursuant to paragraph (2) of subdivision (c),, are~~
10 ~~offered under a new competitive bidding process after January 1,~~
11 ~~2008, due to the termination, suspension, or relinquishment of an~~
12 ~~original contract award, the department shall assign first priority~~
13 ~~to successful applicants that agree to maintain that class within the~~
14 ~~attendance area of the elementary school as originally granted.~~

15 ~~(b) The State Department of Education shall report to the~~
16 ~~Department of Finance and the Legislature the number of children~~
17 ~~who are being served in California state preschool programs. The~~
18 ~~report shall also include the number of children served above the~~
19 ~~income eligibility threshold.~~

20 ~~(c) (1) Upon appropriation of funds in the annual Budget Act~~
21 ~~or another statute, California state preschool programs located in~~
22 ~~the attendance area of elementary schools ranked in deciles 1 to~~
23 ~~3, inclusive, of the most recent base Academic Performance Index~~
24 ~~established by the Superintendent pursuant to Section 52056, shall~~
25 ~~receive up to five million dollars (\$5,000,000) to be distributed to~~
26 ~~each participating class at a rate of two thousand five hundred~~
27 ~~dollars (\$2,500) per class per school year. Funds received pursuant~~
28 ~~to this subdivision may be used for all of the purposes described~~
29 ~~in Sections 8238.1 to 8238.3, inclusive.~~

30 ~~(2) If the total amount available for the purposes of paragraph~~
31 ~~(1) is insufficient to fund all of the participating classes at the~~
32 ~~per-class rate described in that paragraph, the Superintendent shall~~
33 ~~set criteria for the distribution of the funds.~~

34 ~~SEC. 11. Section 8238.4 of the Education Code is amended to~~
35 ~~read:~~

36 ~~8238.4. Of funds appropriated in Schedule (1) of Item~~
37 ~~6110-196-0001 of Section 2.00 of the Budget Act of 2006 (Ch.~~
38 ~~48, Stats. 2006) for child development and preschool programs,~~
39 ~~fifty million dollars (\$50,000,000) is available for expenditure by~~
40 ~~the Superintendent as follows:~~

1 ~~(a) (1) Forty-five million dollars (\$45,000,000) to reimburse~~
2 ~~participating programs on a per-child basis at the same rate that is~~
3 ~~used for the state preschool program, as determined in the annual~~
4 ~~Budget Act or other statute.~~

5 ~~(2) The funds described in paragraph (1) shall be assigned to~~
6 ~~programs~~

7 ~~8238.4. (a) When funds appropriated for the California state~~
8 ~~preschool programs that are located in the attendance area of~~
9 ~~elementary schools ranked in deciles 1 to 3, inclusive, based on~~
10 ~~of the 2005 most recent base Academic Performance Index~~
11 ~~established pursuant to Section 52056. Within elementary schools~~
12 ~~in deciles 1 to 3, inclusive, based on the 2005 base Academic~~
13 ~~Performance Index, preference shall be provided to underserved~~
14 ~~areas as described in subdivision (d) of Section 8279.3. If the funds~~
15 ~~described in paragraph (1) that receive funding for the literacy~~
16 ~~component based on the criteria established by the Superintendent~~
17 ~~pursuant to paragraph (2) of subdivision (c) are offered under a~~
18 ~~new competitive bidding process after January 1, 2008, due to the~~
19 ~~termination, suspension, or relinquishment of an original contract~~
20 ~~award and in order to maintain an existing class, the department~~
21 ~~shall assign first priority to successful applicants that will agree~~
22 ~~to maintain that class within the attendance area of the elementary~~
23 ~~school as originally granted.~~

24 ~~(3) Notwithstanding any other provision of law, programs~~
25 ~~receiving funding in this section shall serve children who would~~
26 ~~attend kindergarten in the subsequent academic year. No child~~
27 ~~shall receive services from a program under this section for more~~
28 ~~than one year.~~

29 ~~(4) Notwithstanding any other provision of law, a program~~
30 ~~receiving funding pursuant to this section may provide services to~~
31 ~~children in families above the income eligibility threshold, as~~
32 ~~described in Sections 8263 and 8263.1, if the number of contracted~~
33 ~~slots exceed the number of eligible children. No more than 20~~
34 ~~percent of contracted slots, calculated throughout the participating~~
35 ~~program's entire contract, may be filled by children in families~~
36 ~~above the income eligibility threshold.~~

37 ~~(5)~~

38 ~~(b) The department State Department of Education shall report~~
39 ~~to the Department of Finance and the Legislature at budget hearings~~
40 ~~the number of children who are being served with the funds~~

~~described in paragraph (1) in California state preschool programs.~~
The report shall also include the number of children served above the income eligibility threshold and the age of all children served.

~~(b)~~

~~(c) (1) Five~~ Upon appropriation of funds in the annual Budget Act or another statute, California state preschool programs located in the attendance area of elementary schools ranked in deciles 1 to 3, inclusive, of the most recent base Academic Performance Index established pursuant to Section 52056, shall receive up to five million dollars (\$5,000,000) to be distributed to each participating class at a rate of two thousand five hundred dollars (\$2,500) per class per school year. Funds received pursuant to this subdivision may be used for all of the following purposes:

~~(A) Compensation and support costs for program coordinators as described in Section 8238.2.~~

~~(B) Staff development pursuant to Section 8238.3.~~

~~(C) Family literacy services.~~

~~(D) Instructional materials, including consumables.~~

~~(2) In the event that the total amount described in paragraph (1) is insufficient to fund all of the participating class at the per classroom rate described in that paragraph, the class rate shall be prorated accordingly.~~

~~(e) The appropriation of funds for purposes of this section beyond the amounts described in this section shall be pursuant to the annual Budget Act or other statute.~~
~~described in Sections 8238.1 to 8238.3, inclusive.~~

~~(2) If the total amount available for the purposes of paragraph (1) is insufficient to fund all of the participating classes at the per-class rate described in that paragraph, the following priorities for the distribution of funds shall apply:~~

~~(A) First priority shall go to programs that originally received funding pursuant to Chapter 311 of the Statutes of 2006.~~

~~(B) Second priority shall go to California state preschool programs located in the attendance area of a decile 1 elementary school based on the most recent base Academic Performance Index established pursuant to Section 52056. If the funds made available for the purposes of paragraph (1) are insufficient to fund all of the programs within this priority, a random draw will determine which programs will receive funds.~~

1 (C) Third priority shall go to California state preschool
2 programs located in the attendance area of a decile 2 elementary
3 school based on the most recent base Academic Performance Index
4 established pursuant to Section 52056. If the funds made available
5 for the purposes of paragraph (1) are insufficient to fund all of
6 the programs within this priority, a random draw will determine
7 which programs will receive funds.

8 (D) Fourth priority shall go to California state preschool
9 programs located in the attendance area of a decile 3 elementary
10 school based on the most recent base Academic Performance Index
11 established pursuant to Section 52056. If the funds made available
12 for the purposes of paragraph (1) are insufficient to fund all of
13 the programs within this priority, a random draw will determine
14 which programs will receive funds.

15 (3) Programs selected to receive funds for the purposes of
16 paragraph (1) at the per-class rate described in this section shall
17 continue to receive those funds for one additional year after the
18 elementary school reaches decile 4 of the most recent Academic
19 Performance Index established pursuant to Section 52056.

20 ~~SEC. 13.~~

21 SEC. 12. Section 8238.5 of the Education Code is amended
22 to read:

23 8238.5. Subject to the availability of funds, the Superintendent
24 shall conduct an evaluation of the effectiveness of California state
25 preschool programs with family literacy components established
26 pursuant to this article. To the extent feasible, the evaluation shall
27 do both of the following:

28 (a) Rely on quantifiable measures of academic achievement of
29 participating children, including, but not limited to, performance
30 on the Standardized Testing and Reporting Program test and the
31 English language development test administered in grade 3.

32 (b) Estimate the costs and benefits of the programs.

33 ~~SEC. 14.~~

34 SEC. 13. Section 8238.6 of the Education Code is repealed.

35 ~~SEC. 15.~~

36 SEC. 14. Section 8239 of the Education Code is repealed.

37 ~~SEC. 16.~~

38 SEC. 15. Section 8239 is added to the Education Code, to read:

1 8239. (a) The Superintendent shall encourage California state
2 preschool program contracting agencies to offer full-day services
3 to parents who have a qualifying need.

4 (b) Part-day services provided under this section shall be
5 reimbursed on a per capita basis, as determined by the
6 Superintendent.

7 (c) Full-day services provided under this section shall be
8 reimbursed at no more than the standard reimbursement rate with
9 adjustment factors.

10 (d) Federal Head Start funds used to provide services to families
11 receiving California state preschool services shall be deemed
12 nonrestricted funds.

13 ~~SEC. 17.~~

14 ~~SEC. 16.~~ The heading of Article 8 (commencing with Section
15 8240) of Chapter 2 of Part 6 of Division 1 of Title 1 of the
16 Education Code is amended to read:

17
18 Article 8. Center Child Care and Development Programs

19
20 ~~SEC. 18.~~

21 ~~SEC. 17.~~ Section 8240 of the Education Code is amended to
22 read:

23 8240. The Superintendent, with funds appropriated for this
24 purpose, shall administer center child care and development
25 programs.

26 Center child care and development programs shall include:

27 (a) Age, culturally, linguistically, and developmentally
28 appropriate activities for children.

29 (b) Supervision.

30 (c) Parenting education and parent involvement.

31 (d) Social services that include, but are not limited to,
32 identification of child and family needs and referral to appropriate
33 agencies.

34 (e) Health services.

35 (f) Nutrition.

36 (g) Training and career ladder opportunities, documentation of
37 which shall be provided to the State Department of Education.

38 ~~SEC. 19.~~

39 ~~SEC. 18.~~ Section 8244 of the Education Code is amended to
40 read:

1 8244. (a) (1) Any entity operating center child care and
2 development programs funded pursuant to this chapter that provide
3 direct services to children at two or more sites, including the use
4 of more than one contract or subcontract funded pursuant to this
5 chapter, shall employ a program director.

6 (2) Programs providing direct services to children, for the
7 purposes of this section, are center child care and development
8 programs pursuant to this article, migrant child care and
9 development programs pursuant to Article 6 (commencing with
10 Section 8230), California state preschool programs pursuant to
11 Article 7 (commencing with Section 8235), child care and
12 development services for children with exceptional needs programs
13 pursuant to Article 9 (commencing with Section 8250), infant care
14 and development services programs pursuant to Article 17
15 (commencing with Section 8390), and any of these programs
16 operated through family child care homes.

17 (b) (1) For purposes of this section, the following definitions
18 shall apply:

19 (A) “Administrative responsibility” means awareness of the
20 financial and business circumstances of the program, and, in
21 appropriate cases, supervision of administrative and support
22 personnel and the knowledge and authority to direct or modify
23 administrative practices and procedures to ensure compliance to
24 administrative and financial standards imposed by law.

25 (B) “Program director” means a person who, regardless of his
26 or her title, has programmatic and administrative responsibility
27 for a child care and development program that provides direct
28 services to children at two or more sites.

29 (C) “Programmatic responsibility” means overall supervision
30 of curriculum and instructional staff, including instructional aides,
31 and the knowledge and authority to direct or modify program
32 practices and procedures to ensure compliance to applicable quality
33 and health and safety standards imposed by law.

34 (2) Administrative and programmatic responsibility also includes
35 the responsibility to act as the representative for the child
36 development program to the State Department of Education. With
37 respect to programs operated through family child care homes,
38 administrative and programmatic responsibility includes ensuring
39 that quality services are provided in the family child care homes.

(c) The program director also may serve as the site supervisor at one of the sites, provided that he or she both fulfills the duties of a “day care center director,” as set forth in Section 101315 of Title 22 of the California Code of Regulations, and meets the qualifications for a site supervisor as set forth in subdivision (aa) of Section 8208.

(d) The Superintendent of Public Instruction may waive the qualifications for program director described in Sections 8360.1 and 8360.3 upon a finding of one of the following circumstances:

(1) The applicant is making satisfactory progress toward securing a permit issued by the Commission on Teacher Credentialing authorizing supervision of a child care and development program operating in two or more sites or fulfilling the qualifications for program directors in severely handicapped programs, as specified in Section 8360.3.

(2) The place of employment is so remote from institutions offering the necessary coursework as to make continuing education impracticable and the contractor has made a diligent search but has been unable to hire a more qualified applicant.

(e) The Superintendent of Public Instruction, upon good cause, may by rule identify and apply grounds in addition to those specified in subdivision (d) for granting a waiver of the qualifications for program director.

~~SEC. 20.~~

SEC. 19. Section 8250.5 of the Education Code is amended to read:

8250.5. A contractor providing services pursuant to a center child care contract, a migrant child care contract, or an alternative payment child care contract is subject to the requirements of the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.).

~~SEC. 21.~~

SEC. 20. Section 8264.5 of the Education Code is amended to read:

8264.5. The Superintendent of Public Instruction may waive or modify child development requirements in order to enable child development programs to serve combinations of eligible children in areas of low population. The child development programs for which the Superintendent may grant waivers shall include, but need not be limited to, California state preschool full-day programs, child care provided by the California School Age Families

1 Education Program (Article 7.1 (commencing with Section 54740)
2 of Chapter 9 of Part 29), infant care and development services,
3 migrant child care and development programs, and center child
4 care and development programs.

5 ~~SEC. 22.~~

6 *SEC. 21.* Section 8266.1 of the Education Code is amended
7 to read:

8 8266.1. Commencing with the 1995–96 fiscal year and each
9 fiscal year thereafter, for the purposes of this chapter,
10 reimbursement rates shall be adjusted by the following
11 reimbursement factors for child care and development programs
12 with a standard reimbursement rate, but shall not apply to the
13 Resource and Referral Programs set forth in Article 2 (commencing
14 with Section 8210), the Alternative Payment Programs set forth
15 in Article 3 (commencing with Section 8220), the California state
16 preschool programs set forth in Article 7 (commencing with
17 Section 8235), the School-age Community Child Care Services
18 programs set forth in Article 22 (commencing with Section 8460),
19 or to the school-age parent and infant development programs:

20 (a) For child care and development providers serving children
21 for less than four hours per day, the reimbursement factor is 55
22 percent of the standard reimbursement rate.

23 (b) For California state preschool programs serving children for
24 the minimum of three hours and less than four hours per day, the
25 reimbursement factor is ~~62~~ 61.72 percent of the standard
26 reimbursement rate.

27 (c) For child care and development program providers serving
28 children for not less than four hours per day, and less than six and
29 one-half hours per day, the reimbursement factor is 75 percent of
30 the standard reimbursement rate. For providers operating under
31 the At Risk Child Care Program set forth in Article 15.5
32 (commencing with Section 8350) and serving children for not less
33 than four hours per day, and less than seven hours per day, the
34 reimbursement factor is 75 percent of the standard reimbursement
35 rate.

36 (d) For child care and development program providers serving
37 children for not less than six and one-half hours per day, and less
38 than 10 and one-half hours per day, the reimbursement factor is
39 100 percent of the standard reimbursement rate. For providers
40 operating under the At Risk Child Care Program set forth in Article

1 15.5 (commencing with Section 8350) and serving children for
2 not less than seven hours per day, and less than 10 hours per day,
3 the reimbursement factor is 100 percent of the standard
4 reimbursement rate.

5 (e) For child care and development program providers serving
6 children for 10 and one-half hours or more per day, the
7 reimbursement factor is 118 percent of the standard reimbursement
8 rate.

9 ~~SEC. 23.~~

10 *SEC. 22.* This act shall become operative on July 1, 2009.

11 ~~SEC. 24.~~

12 *SEC. 23.* This act shall become operative only if Senate Bill
13 1629 of the 2007–08 Regular Session of the Legislature is enacted
14 and becomes effective on or before January 1, 2009.