

## SENATE THIRD READING

SB 98 (Committee on Budget and Fiscal Review)

As Amended: June 23, 2020

Majority vote. Budget Bill Appropriation Takes Effect Immediately

### SUMMARY:

This is the Education Omnibus trailer bill for the 2020 budget. It implements all the appropriations and actions of the K-12 schools Proposition 98 Budget Package and early childhood education, including Local Control Funding Formula, deferrals for 2020-21 school year, federal aid, the "School Finance, Instruction and Accountability Act of 2020-21," and the transition of child development programs to the Department of Social Services.

### Major Provisions

- 1) Adopts the May Revise "Supplemental Payment" schedule for the difference between total Prop 98 funding level and Test Two in the Guarantee, at 1.5% of General Fund each year, for a total Prop 98 funding level of up to 40% of General Fund, beginning 2021-22. This total difference is estimated to be \$12.366 Billion, based on the Test One calculation for 2020-21 in the Budget Act.
- 2) Defers an ongoing total of \$3.428 billion in funding from the 2020-21 budget year to the 2021-22 budget year. If increased federal aid is not appropriated, an additional \$5.7 billion in 20-21 deferrals is authorized. Creates authority for up to \$300 million in deferral hardship funds for local education agencies (LEAs).
- 3) Allocates \$7.150 Billion in discretionary state and federal funds for one-time COVID-19 impacts on K-12 schools and children.
- 4) Provides an increase of \$645 million Proposition 98 funding for special education services and supports: \$545m to base rate increases, \$100m for low-incidence pool increase.
- 5) Extends the 2019-ADA Hold Harmless to the 2020-21 School Year for all LEAs, contingent on in-person instruction or distance learning parameters, student participation reporting, and local Learning Continuity and Attendance plan elements.
- 6) Maintains instructional day requirements but allows flexibility for instructional minutes in 2020-21 School Year.
- 7) Rejects the May Revise 10% trigger cuts to all child care programs and growth adjustment reductions to Alternative Payment programs, General Child Care (GCC), and California State Preschool Program (CSPP).
- 8) Provides increased Child Care and Development Block Grant (CCDBG) for Alternative Payment Programs (CAPP).
- 9) Provides \$350 million CARES Act one-time CCDBG funding for CAPP, SB 89 (2020) backfill, and child care provider stipends
- 10) Provides Hold Harmless to all state-subsidized childcare providers for attendance if open in 20-21.

- 11) Adopts a "Child Care Trigger" for anticipated \$300 million in new federal CCDBG aid, to fund additional child care access, re-opening grants for centers and family child care homes, and provider stipends based on market costs.
- 12) Delays development of observation protocol for Teachers of English Learners from June 30, 2020 to December 31, 2021.
- 13) Provides Hold Harmless to direct-contract childcare providers for child attendance if open in 2020-21, and if closed due to public health closure order, and directs the department to fund contracts at 100% attendance or 100% reimbursable costs. Closed providers are required to provide distance learning services.
- 14) Appropriates \$350.314 million in federal one-time CCDBG CARES Act funds for child care costs in 2019-20 and 2020-21:
  - a) Funds \$50 million in child care cleaning and safety supplies through Resource & Referral agencies, originally funded by SB 89.
  - b) Funds and allows rollover of \$50 million SB 89 Essential Worker Child Care vouchers into 20-21.
  - c) Funds an elimination of family fees for state-subsidized child care through June 30, 2020.
  - d) Provides up to \$62.5 million for hold harmless funding for CAPP and CalWORKS providers at 100% of certificated need, instead of child attendance, through the fiscal year.
  - e) Funds up to \$62.5 million for one-time child care provider stipends for CAPP and CalWORKS providers, to offset additional costs during the COVID-19 pandemic.
  - f) Provides an additional \$73 million for one-time essential worker CAPP child care vouchers; Prioritizes vouchers for continuing the enrollment of families pursuant to SB 89 for up to an additional 90 days of care.
- 15) Rejects January Budget and May Revise General Fund and Prop 98 reductions to Alternative Payment programs, General Child Care, and California State Preschool Program for negative growth, and makes ongoing code change to eliminate negative growth adjustments for all capped child care programs.
- 16) Replaces the 14-day child care provider notice period for when a parents changes providers with same-day notice.
- 17) Requires alternative payment (CAPP) programs to report same program data to CDE as already provided for CalWORKS Stages 2-3 programs.
- 18) Eliminates \$235 million in one-time funding, appropriated in the 2019-20 Budget Act, for Child Care Infrastructure Grants.
- 19) Eliminates \$150 million in one-time funding, appropriated in the 2019-20 Budget Act, for Child Care Workforce Grants.
- 20) Provides conformity for final certification of Local Control Funding Formula (LCFF) calculations to revenue limit timelines, at 5 years.

- 21) Defers an ongoing total of \$3.428 billion in funding from the 2020-21 budget year to the 2021-22 budget year. Lack of federal aid triggers an additional \$5.7 billion in 2020-21 deferrals.
- 22) Creates a hardship fund for local education agencies (LEAs) unable to afford deferrals in 2019-20 and 2020-21, for up to \$300 million.
- 23) Eliminates \$300 million in one-time funding, appropriated in the 2019-20 Budget Act, for full-day Kindergarten facilities through the Office of Public School Construction.
- 24) Through July 1, 2024, allows proceeds from the sale of surplus LEA-funded facilities to be used for general fund purposes.
- 25) Eliminates State Board of Education (SBE) review of LEA Joint Use Occupancy agreements.
- 26) Provides authority and timelines for County Offices of Education (COEs) to furnish LEA audits in 2019-20.
- 27) Restricts SBE review of property transfers impacting LEA boundaries, for appeals filed after July 1, 2020.
- 28) Adds intent language regarding LEA decisions for use of peace officers on school campuses.
- 29) Suspends the statutory split of Proposition 98 funds between K-12 education and community colleges for the 2020-21 fiscal year, in conformity with annual suspensions since 1992-93.
- 30) Consolidates FCMAT reporting to annual reporting, for all LEA emergency loans.
- 31) Clarifies LEA apportionment excess or deficiency audit conclusions.
- 32) Requires the statutory LCFF COLA and childcare COLA to be zero for 2020-21.
- 33) Prohibits use of LCFF funds for new college enrollments and tuition, starting July 1, 2020, with the exception of students already enrolled for the 2020-21 school year.
- 34) Provides clean-up to FCMAT and AB 1200 statutes to conform to existing school fiscal distress practices, including conforming to current FCMAT indicators, and a requirement that LEAs demonstrate ability to meet financial obligations for two subsequent years.
- 35) Creates the "School Finance, Instruction, and Accountability Act of 2020-21 School Year" which does the following:
- 36) Provides a hold-harmless for the purpose of calculating apportionment in the 2020-21 fiscal year; the Department of Education shall use the average daily attendance in the 2019-20 reported from July 1, 2019 to February 29, 2020, as specified in the bill, except for new charter schools commencing instruction in 2020-21, for LEAs that comply with the 2020-21 requirements for instruction.
- 37) Expects LEA to offer in-person instruction to the greatest extent possible and permits distance learning for purposes of attendance, as defined.
- 38) Retains instructional day requirements, but allows through a combination of in-person and distance learning instruction, allows minimum-day instructional minute requirements, and exempts LEAs from minimum instructional minute requirements for physical education.

- 39) Defines instructional minutes for in-person instruction as time under the immediate supervision of a certificated employee of the LEA and for distance learning based on the time value of assignments as determined and certified by a certificated employee of the LEA, or a combination of both instruction types.
- 40) Defines distance learning requirements: Distance learning may be provided on a LEA-wide or schoolwide basis pursuant to an order or guidance from a state or local public health officer, and for pupils who are medically fragile, at-risk from in-person instruction, or quarantining due to exposure to COVID-19. Instructional requirements are defined specific to the access and content of instruction, supports for students with exceptional needs, English learner students, students in foster care, experiencing homelessness or in need of mental health supports. Daily interaction with students in distance learning is defined, and LEAs are required to provide access to nutrition programs.
- 41) Defines in-person and distance learning participation for purposes of attendance: an LEA must document daily student participation, as defined, when providing distance learning, and keep weekly engagement records. LEAs shall continue to report absences, as defined, for purposes of reporting chronic absenteeism. LEAs shall developed tiered re-engagement strategies for students who do not participate, and shall regularly engage with parents or guardians regarding academic progress. Requirements shall be included in the audit guide.
- 42) Defines fiscal penalties for LEAs that do not meet the instructional day requirements or the attendance related requirements.
- 43) Continues 2019-20 policy that Charter schools offering distance learning pursuant to this section of the bill are not required to request a material revision to the charter, and will not be considered a non-classroom based charter.
- 44) Replaces the annual LCAP requirement with a Learning Continuity and Attendance Plan, with public stakeholder engagement, to outline the LEA's compliance with the Act's provisions including student participation and attendance reporting, device accessibility, and instruction. Requires the CDE and SBE to create a template for this Plan by August 1, 2020.
- 45) Prohibits layoffs for specified certificated and classified employees in the 2020-21 school year for all LEAs and community colleges, including teachers, and nutrition, transportation, and custodial staff. Provides legislative intent that no classified employees be laid off in the 2020-21 school year.
- 46) Clarifies statute for implementation of AB 1505 and AB 1507 (O'Donnell, 2019), regarding charter school pupil enrollment, geographic restrictions (including federal tribal lands), charter authorizers, charter Economic Recovery Targets, charter apportionment calculations, debts and liabilities, SBE waiver authority, and various other technical adjustments.
- 47) Amends annual child care growth adjustment to prevent negative growth.
- 48) Allows LEA inter-fund borrowing in 2020-21 and 2021-22, contingent on a public hearing.
- 49) Extends the teacher credential exam validity period to 11 years, and the credential fee validity period to 120 days, and reduces clinical practice requirement to one school setting in 2020-21.
- 50) Exempts FCMAT from the County Office of Education (COE) merit system for hiring.

- 51) Clarifies the COE Special Day Class instructional time penalty.
- 52) Allows charter renewal decisions to consider two out to the prior three years of academic performance, due to loss of 2019-20 accountability data.
- 53) Extends the deadline for Transitional Kindergarten credential requirements from August 2020 to August 2021.
- 54) Waives assessment requirement for the State Seal of Biliteracy in 19-20 and 20-21 school years.
- 55) Makes revisions to the Local Control Accountability Plan (LCAP) requirements including adding a summary of stakeholder engagement, requiring LCAP goals and differential assistance for addressing low-performing pupil subgroups, and requiring SBE LCAP instructions to specify that LEAs must address disparity when individual schools are in the lowest two perform each levels but the LEA overall is not.
- 56) Provides technical clean-up regarding the Collaborative for Education Excellence.
- 57) Extends the project performance period for the Bilingual Teacher Professional Development grant to June 30, 2021.
- 58) Suspends in-person parent advisory statutory requirements for Migrant Education program in 2020.
- 59) Allows distance learning for various Migrant Education programs in 2020.
- 60) Requires Individualized Education Programs to include plans for emergency conditions, when created or updated.
- 61) Suspends the creation of single-LEA SELPAs through July 1, 2024.
- 62) Extends CDE and LEA Special Education planning timelines.
- 63) Extends the LEA MediCal study deadlines.
- 64) Allows SELPA state funding for education-related mental health services to provide mental health services to all pupils.
- 65) Adopts the Special Education Funding Formula, which freezes existing special education funding calculations for apportionment except low-incidence pool, adopts an equalization adjustment for Special Education Local Plan Area base funding, at \$625 per ADA, or the SELPA's 2019-20 ADA rate, whichever is greater.
- 66) Extends out-of-home funding calculations into 2020-21.
- 67) Adjusts the Mandate Block Grant for removal of Academic Performance Index and addition of AB 1505 clarifications.
- 68) Adopts clarifications to County excess ERAF calculations, makes calculations prior to 2019 final under certain parameters, requires new penalties beginning in 2019-20, and requires the State Controller to provide guidance.

- 69) Adds the Newcomer Education and Well-being Program, CalNEW, at the Department of Social Services, to the Education Code.
- 70) Reduces Adults in Correctional Facilities funding by \$9.765 million.
- 71) Reduces LEA-based California State Preschool (CSPP) program funding by \$110 million.
- 72) Eliminates the 2019-20 Budget Act expansion of non-LEA based CSPP's 10,000 slots, for a savings of \$31 million.
- 73) Clarifies SB 117 (2020) ADA Hold Harmless provisions, ASES hold harmless provisions, and expands allowable uses of funding during COVID-19 closures to include provision of school meals and distance learning materials.
- 74) Allows distance learning for Extended Summer Special Education programs, if consistent with student IEP and time value of work is equivalent to minimum day requirements.
- 75) Provides CDE with limited waiver authority for ASES program hours, rates, ratios, and days for the 2020-21 school year.
- 76) Provides for a Guerneville Elementary settle-up payment plan.
- 77) Provides Education Protection Account 2019-20 over-payment settle-up.
- 78) Specifies that state pension payments on behalf of LEAs in 2020-21 are not considered LEA General Fund for Routine Restricted Maintenance Account requirements purposes, under Education Code 17070.75.
- 79) Extends Orange COE reporting deadlines to June 30, 2021 for the state's Multi-Tiered System of Support framework.
- 80) Extends the testing window for English Language Proficiency Assessments to October 30, 2020.
- 81) Provides LCAP dashboard data and differentiated assistance freeze for 2019-2020, due to COVID-19 school closures.
- 82) Allows new charters to delay opening in 2020-21.
- 83) Allows Adult in Correctional Facilities and Special Education for Children with Exceptional Needs appropriations from the 2018-19 Budget Act to be available for encumbrance through 2021.
- 84) Appropriates \$1 million for SoCal Regional Occupational Center with reporting requirements.
- 85) Allocates \$5.3 Billion in discretionary state and federal funds for one-time COVID closure impacts on schools and children, to address Learning Loss
  - a) \$1.5B to all LEAs, based on Special Education enrollment
  - b) \$2.9B to all LEAs, based on LCFF Supplemental and Concentration grant formula
  - c) \$979 million to all LEAs, based on LCFF grant formula.

- 86) Appropriates \$50 million for new LEA-based Early Literacy initiatives, and \$3 million for a CCEE early literacy system of support, pursuant to a lawsuit settlement.
- 87) Provides appropriation authority to Director of Finance to ensure adequate funding for the Special Education for Children with Exceptional Needs in 2020-21.
- 88) Appropriates \$450,000 for California School Dashboard/LCAP/SARC online database and alignment development.
- 89) Appropriates \$45 million from the federal Elementary and Secondary School Emergency Relief (ESSER) Fund to LEA Community School efforts during COVID-19, through 2025. Creates a competitive grant program with partnership and sustainability provisions.
- 90) Appropriates \$112.2 million from the ESSER Fund for LEA school meal reimbursements during summer break and COVID school closures, at a rate of up to 75 cents per meal. Allows state reimbursement funds from 2019-20 to be used for disaster relief for LEAs who did or attempted to serve student meals during the school closure period.
- 91) Adopts a "Child Care Trigger" for anticipated increased but not yet appropriated federal CCDBG aid in the following priority order:
  - a) Up to \$100 million to fund additional child care access in the Alternative Payment Program in 2020-21, and up to \$50 million to fund two-year contract expansions for General Child Care and non-LEA California State Preschool programs.
  - b) Up to \$25 million in grants to re-open licensed centers and family child care homes that have remained closed due to COVID-19 impacts.
  - c) Up to \$125 million for child care program stipends to address cost of care during COVID-19.
- 92) Appropriates funds for the FCMAT Standardized Account Code Structure system replacement project.
- 93) Provides \$4 million Prop 98 General Fund for the California Dyslexia Initiative's research and dissemination of resources.
- 94) Appropriates \$60 million through 2025 for the Classified Employees Summer Bridge program.
- 95) Appropriates \$200,000 for the Young People's Taskforce, under the leadership of the State Superintendent, to address mental health and public safety culture on school campuses.

#### **COMMENTS:**

This is the Education Omnibus trailer bill for the 2020 budget. It implements all the appropriations and actions of the K-12 schools Proposition 98 Budget Package and early childhood education, including Local Control Funding Formula, deferrals for 2020-21 school year, federal aid, the "School Finance, Instruction and Accountability Act of 2020-21," and the transition of child development programs to the Department of Social Services.

**According to the Author:**

Each section of this legislation is necessary to implement the 2020-21 Budget Act appropriations and policy for the 2020-21 School Year, including federal aid to prevent budget cuts in local schools, to mitigate learning loss and child hunger during the COVID-19 crisis, provide support for re-opening schools safely, stabilize and expand essential worker child care, and provide one-time fiscal and academic flexibilities to assist schools in being responsive during the COVID-19 pandemic.

**Arguments in Support:**

None on file.

**Arguments in Opposition:**

None on file.

**FISCAL COMMENTS:**

This bill appropriates approximately \$103 Billion in state and federal funds for K-12 education and early childhood education, and additional federal aid, if received.

**VOTES:**

**SENATE FLOOR: 27-9-2**

**YES:** Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

**NO:** Bates, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk

**ABS, ABST OR NV:** Borgeas, Jackson

**UPDATED:**

VERSION: June 23, 2020

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