

June 15, 2005

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Tricia Knight

RECEIVED
JUN 20 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *Preschool for All Act*

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled the "Preschool for All Act." The text of the measure, a check for \$200.00 and the address at which we are registered to vote are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Roberta B. Johansen
Remcho, Johansen & Purcell
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
FAX: (510) 346-6201

Sincerely,

James C. Harrison

Roberta B. Johansen

Section 1. Title.

This measure shall be known and may be cited as the "Preschool for All Act."

Section 2. Findings and Declarations.

The people of California find and declare the following:

1. A child's participation in a quality preschool education program plays a critical role in his or her educational development and success in school. Research studies show that children who participate in quality preschool programs are the most likely to become proficient readers by third grade, graduate from high school, and go on to college. Children who do not attend quality preschool are more likely to fall behind their peers in the early grades and are less likely to do well throughout their school careers.
2. Research shows that quality preschool education strengthens the K-12 public schools by helping children become better readers by third grade; reducing the need for special education and grade retention; and increasing high school graduation rates and college attendance. Lack of access for parents to quality, voluntary preschool education opportunities for their children is having a damaging impact on the state's K-12 public schools.
3. There is a severe shortage of quality, affordable preschool education opportunities for California's children, and California lags behind the nation in preschool enrollment. Three out of four statewide, publicly-funded preschool programs have children waiting in line to get in. Middle class families often earn too much for public programs but too little to pay for private preschool. Some do not qualify for publicly-funded programs, but cannot afford to pay the cost of private preschool, which often costs more than annual tuition to the state university system.
4. Recent studies have concluded that smart investments in quality preschool for all save taxpayers \$2.62 for every dollar invested by improving the K-12 public schools, reducing crime and welfare dependence, and substantially increasing the lifetime earnings of children who get a strong start in school.
5. Public safety officials support preschool for all because studies show that quality preschool education early in a child's life reduces the likelihood of dropping out of school, engaging in criminal activity later in a child's life, or going to jail later in a child's life.

6. Scientific knowledge about how children's brains develop confirms the importance of participation in quality preschool programs. Ninety percent of brain growth occurs before age five, before most children enroll in kindergarten.
7. Quality preschool education provides a crucial opportunity to engage parents in the education of their children, and to create a habit of parental involvement that will last throughout a child's academic career. Quality preschools give parents the tools and support they need to get more involved in their child's early education.
8. Research shows that early education and intervention for children with special needs in preschool reduces the need for costly special education services in later years.
9. Quality preschool education helps English-language learners develop their English language skills and meet school readiness goals.
10. Research shows that highly-qualified preschool teachers improve the school-readiness of preschool children. All California children deserve quality preschool programs taught by well-trained teachers using age-appropriate curriculum. Currently, there is a severe shortage of teachers prepared to provide high-quality instruction to California's diverse preschool population. Raising professional qualifications for preschool teachers and instructional aides requires that teachers and instructional aides be provided the time and support necessary to meet these higher standards and that California's postsecondary institutions put in place the early learning programs needed to prepare the next generation of preschool teachers and instructional aides.
11. Taxpayers deserve a preschool-for-all program that is educationally and fiscally accountable to the public, with funds dedicated solely to providing quality preschool opportunities, and that includes a cap on administrative spending and criminal penalties for misuse of funds.

Section 3. Purpose and Intent.

In order to take full advantage of the opportunity presented by children's early brain development; to ensure that all children have the skills they will need to master reading and to succeed in school and in life; to improve the performance of our K-12 public schools by providing all children the opportunity for a strong start in school; to reap proven economic returns on a strategic investment in quality preschool programs; to prepare our children for a new century and a new economy; and to address what is now a preschool education crisis in California, in which middle class families often cannot afford to pay for quality preschool

education that would put their children on the path to success, the people of California do hereby enact the Preschool for All Act. The Act is intended to:

1. Provide a system of voluntary preschool for all children one year before kindergarten that is high quality, available to all regardless of ability to pay, and that is managed in a non-bureaucratic and fiscally responsible way;
2. Ensure that all eligible children have equal access to a quality preschool education that meets age and developmentally appropriate statewide preschool standards and guidelines;
3. Ensure that children have access to a variety of preschool programs, including programs offered by school districts, colleges, universities and community colleges, classroom-based charter schools that offer at least kindergarten through third grade, and other licensed preschool providers, including centers and family child care programs, provided that the programs comply with this Act;
4. Create an accountable program, built upon the existing preschool system, that is administered by the State Superintendent of Public Instruction and county superintendents of schools, or alternative local administrators, to meet local needs while satisfying all the requirements of this Act;
5. Raise professional qualifications for preschool teachers to increase the supply of qualified teachers, and provide the time and support necessary to meet these higher standards;
6. Require that teachers and instructional aides who participate in the program are well-trained and fairly compensated;
7. Ensure that there will be adequate facilities and providers to serve enrolled children and to build capacity for eligible children;
8. Provide a dependable funding stream that will be adequate to provide a quality preschool education experience for California children in the year before they enter kindergarten;
9. Fully fund the Preschool for All program so that General Fund revenues are not required to sustain this program, and prohibit any infringement upon state or local education funds; and
10. Require regular, independent, fiscal and program audits and evaluations to ensure that the programs meet the goals of this Act, that the funds reserved to pay for preschool for all are strictly controlled and accounted for, that dollars spent for

administration are strictly limited, and that the public is kept adequately informed about program quality and fiscal accountability.

Section 4. Section 4 is hereby added to Article IX of the Constitution of the State of California, to read:

Sec. 4. (a) The State shall provide a program of voluntary preschool education for all children one year prior to kindergarten pursuant to the Preschool for All Act. A preschool-age child, as provided in the Preschool for All Act, shall have the same equal protection rights enjoyed by elementary school children under Section 7 of Article I and under the United States Constitution, and any equal protection rights as may in the future apply to elementary school children shall apply to preschool-age children as well, except as expressly provided in the Preschool for All Act.

(b) Notwithstanding any other provision of this Constitution, county superintendents of schools, alternative local administrators, and the Superintendent of Public Instruction shall have the authority, as set forth in the Preschool for All Act, to administer Preschool for All programs, including the allocation of funds as prescribed by the Preschool for All Act, and to select and approve preschool program providers who meet the eligibility requirements prescribed by the Preschool for All Act.

(c) For the purposes of the Preschool for All Act, Preschool for All program providers shall be subject to the control and supervision of the Superintendent of Public Instruction and the county superintendent of schools in the county in which the program is located, as provided in the Preschool for All Act.

(d)(1) All revenues produced by the tax imposed by the Preschool for All Act shall be placed in the Preschool for All Fund, which is hereby created in the State Treasury to be held in trust for the purpose of providing preschool pursuant to the Preschool for All Act and which is continuously appropriated, without regard to fiscal year, for that purpose alone.

(2) The moneys in the Preschool for All Fund and any other fund created pursuant to the Preschool for All Act may not be used for any purpose or program other than the purposes or programs authorized by the Preschool for All Act, and may not be loaned to the state General Fund, or to any other fund of the state, or to any fund of a county, or any other entity, or borrowed by the Legislature, or any other state or local agency, for any purpose other than the purposes authorized by the Preschool for All Act.

(e) Notwithstanding any other provision of this Constitution, revenues generated by the tax imposed by the Preschool for All Act shall not be deemed to be "revenues" or "taxes" for purposes of computing any State expenditure or appropriation limit that is enacted after January 1, 2005, nor shall their expenditure or appropriation be subject to any reduction or limitation imposed pursuant to any provision enacted after that date.

Section 5. Section 14 is hereby added to Article XIII B of the California Constitution to read:

Sec. 14. (a) For purposes of this article, "appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Preschool for All Fund created by the Preschool for All Act.

(b) For purposes of this article, "proceeds of taxes" shall not include the revenues derived from the taxes imposed by the Preschool for All Act.

(c) No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Preschool for All Fund.

Section 6. Section 8.3 is hereby added to Article XVI of the California Constitution to read:

Sec. 8.3. (a) Neither funds appropriated pursuant to subdivision (d) of Section 4 of Article IX nor funds appropriated from any other source for the purpose of the Preschool for All Act shall be deemed to be part of "total allocations to school districts and community college districts from General Funds proceeds of taxes appropriated pursuant to Article XIII B" as that phrase is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

(b) Revenues derived from taxes imposed pursuant to the Preschool for All Act shall not be deemed to be "General Fund revenues which may be appropriated pursuant to Article XIII B" as that phrase is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of "per capita General Fund Revenues" as that phrase is used in Section 8.

(c) Revenues derived from taxes imposed pursuant to the Preschool for All Act shall not be deemed to be General Fund revenues for the purposes of any other provision that sets a minimum level of funding for educational purposes and that is enacted after January 1, 2005.

Section 7. Chapter 1.5 is hereby added to Part 9 of Division 1 of Title 1 of the Education Code, commencing with Section 14110, to read as follows:

CHAPTER 1.5. PRESCHOOL FOR ALL

ARTICLE 1. GENERAL PROVISIONS

Sec. 14110. (a) This Chapter implements the requirement of preschool for all established by Section 4 of Article IX of the California Constitution. As used throughout this Chapter, "this Act" refers to the Preschool for All Act.

(b) Four years after the effective date of this Act, every preschool-age child, regardless of income, shall have access for one year to a Preschool for All program that meets the requirements of this Act. A "preschool-age child" for purposes of this Act shall mean a child born on or after the effective date of this Act who is one year prior to the date that child enters kindergarten.

(c) A Preschool for All program shall be free, except as provided in subdivision (d) of Section 14132, and voluntary for preschool-age children and shall include, at a minimum, all of the following:

(1) A three-hour per day instructional program offered for 180 days per year;

(2) A curriculum that is age and developmentally appropriate, based on statewide preschool learning standards, guidelines, and appropriate instructional practices adopted by the Superintendent of Public Instruction, and aligned with statewide academic standards for elementary education; and

(3) Classes of no more than 20 children with at least one teacher and at least one instructional aide for programs whose teachers and instructional aides have met the educational requirements of Section 14111, subdivisions (a) and (b). Until they comply with the educational requirements of Section 14111, subdivisions (a) and (b), programs shall provide classes of no more than twenty-four children with at least one teacher and classes with no more than a one to eight adult-child ratio.

ARTICLE 2. INSTRUCTIONAL STAFF

Sec. 14111. (a) By July 1, 2014, all Preschool for All teachers in programs that are selected and approved to become Preschool for All providers pursuant to Sections 14118 and 14135 shall have a baccalaureate degree and shall have completed at least 24 units in early learning, and all instructional aides

in such programs shall have completed at least 48 units of college-level work, including 24 units in early learning.

(b) By July 1, 2016, all Preschool for All teachers in programs that are selected and approved to become Preschool for All providers pursuant to Sections 14118 and 14135 shall have a baccalaureate degree and an early learning credential, as provided in Section 14112, or a multiple subject credential in the case of a person who received the credential prior to July 1, 2010, and who has 24 units in early learning.

(c) Prior to July 1, 2014, teachers in Preschool for All programs shall, at a minimum, meet the educational requirements of Title 5, Division 8, Chapter 1, Article 5, Section 80112 of the California Code of Regulations, in effect as of January 1, 2005, and instructional aides in Preschool for All programs shall, at minimum, meet the requirements of Title 5 of the California Code of Regulations, in effect as of January 1, 2005.

Sec. 14112. By July 1, 2008, the Superintendent of Public Instruction, in collaboration with California public colleges and universities, including community colleges, shall develop an early learning credential consistent with the requirements of subdivisions (a) and (b) of Section 14111 and shall submit the credential to the California Commission on Teacher Credentialing for approval and implementation. The California Commission on Teacher Credentialing may also recognize other early learning credentials that are consistent with the requirements of subdivisions (a) and (b) of Section 14111.

Sec. 14113. (a)(1) By January 1, 2008, the Superintendent of Public Instruction, in collaboration with California public college and university systems, including the community college system, and with private colleges and universities, shall establish a workforce development plan based on the county superintendents of schools' assessment of the need for teachers and instructional aides for Preschool for All programs.

(2) Pursuant to this plan, California public college and university systems, including the community college system, may apply to the Superintendent of Public Instruction for funding from the Preschool for All Fund to develop, in consultation with other systems and in a manner that promotes articulation, college-level courses and degree programs in early learning, and to provide these courses and degree programs. Use of Preschool for All funds for these programs shall be limited to ten years and shall not exceed a total cost of five hundred million dollars (\$500,000,000) over the ten-year period. California public college and university systems, including the community college system, may redirect funding within their budgets to provide these courses and degree programs,

provided, however, that the State shall not be obligated to provide additional funding for these purposes during the ten-year period. In order to avoid any need for the appropriation of General Fund revenues for this purpose after the ten-year period, the Superintendent of Public Instruction may allocate additional funds from the Preschool for All Fund or the Preschool for All Reserve Fund after the ten-year period only if California public college and university systems, including the community college system, incur costs above the costs they would ordinarily incur to meet the regular and ongoing needs of California's students as a direct result of the Preschool for All Act.

(b) By July 1, 2007, the California Student Aid Commission, in consultation with the Superintendent of Public Instruction, shall establish a program for financial aid and other support for full-time or part-time students to ensure that a qualified teaching and instructional aide staff becomes available in accordance with the timetable established by this Act. Use of Preschool for All funds for this program shall be limited to ten years and shall not exceed a total cost of two hundred million dollars (\$200,000,000) over the ten-year period. The financial aid and other support provided pursuant to this program shall be all of the following:

(1) Available, as a matter of preference, to students with the greatest financial need;

(2) Limited to students who commit to work in Preschool for All programs for a period of time commensurate with the total amount of state assistance they have received; and

(3) Available, as a matter of preference, to students who commit to work in geographical areas with the greatest need for Preschool for All teachers and instructional aides, and to students who have a demonstrated history of working in early learning programs.

Sec. 14114. (a) Teachers and instructional aides in Preschool for All programs shall be paid increasing levels of compensation as they approach the standards established by Section 14111, and after meeting those standards, they shall be compensated as set forth in each county's plan pursuant to paragraph 13 of subdivision (b) of Section 14120.

(b) Preschool for All teachers who are employed to teach two Preschool for All sessions per day and Preschool for All instructional aides who are employed to work two Preschool for All sessions per day shall be considered full-time Preschool for All program employees for the purposes of the compensation, including pay and benefits, that they receive from Preschool for All funds.

Sec. 14115. (a) In order to provide representation and collective bargaining rights for employees of Preschool for All provider employers, including public schools, charter schools, and other licensed preschool providers, and to establish uniform rights for employees and obligations of Preschool for All provider employers, it is the intent of this Act to establish uniform requirements and standards based on state and county funding, controls, accountability, and sanctions for all Preschool for All provider employers. Such state and county involvement and control includes but is not limited to the following: funding, governance, accountability, monitoring, reporting, program evaluation, teacher credentialing, teacher compensation, coordination with public local elementary schools and districts, sanctions, and removal of Preschool for All program providers.

(b) For the purposes of establishing union representation procedures and collective bargaining for employees of Preschool for All program providers, the Preschool for All program provider employer as a condition of receiving funding and pursuant to the terms of the agreement with the county superintendent of schools, the Superintendent of Public Instruction, or alternative local administrator as to conditions, controls and supervision of the Preschool for All Program, shall, in accordance with Section 14118, be considered a Preschool for All Program employer as defined in Chapter 10.7, Division 4 of Title 1, Section 3540.1(n) of the Government Code, and Chapter 10.7, Division 4 of Title 1 (commencing with Section 3540 of the Government Code) shall apply to such employer.

(c) With respect to Preschool for All program employers that are not school districts or county offices of education, the scope of representation, as defined in Section 3543.2 of the Government Code, shall also include the discipline and dismissal of employees.

ARTICLE 3. GOVERNANCE

Sec. 14116. (a) The Superintendent of Public Instruction shall administer the Preschool for All Act by reviewing and approving local plans and approving the distribution of funding to county superintendents of schools. The Superintendent of Public Instruction shall consult with the county superintendents of schools prior to determining how to allocate administrative expenditures within the administrative cap established by Section 14130.

(b) In addition to the administrative responsibilities set forth in subdivision (a) of this Section, the Superintendent of Public Instruction shall be responsible for targeted outreach to local communities, if he or she determines that such outreach, in addition to the outreach conducted pursuant to a county

plan, is necessary to inform parents of preschool-age children within the county, especially parents in underserved communities, about the importance and availability of preschool, and about the process for enrolling their children.

(c) The Superintendent of Public Instruction shall be responsible for the following:

(1) Evaluating the statewide need for Preschool for All facilities;

(2) Reviewing and evaluating the counties' facility plans and reserves;

(3) Ensuring that the counties' facility reserve accounts together with the state facilities reserve fund, established by Section 14134, are sufficient to meet statewide anticipated facilities needs and ensuring that the state facilities reserve fund is allocated in a manner that ensures that the counties' facility plans are implemented, provided that total statewide facilities costs for new construction, purchase, and renovation from the Preschool for All Fund shall not exceed two billion dollars (\$2,000,000,000).

Sec. 14117. (a) Within six months of the effective date of this Act, the Superintendent of Public Instruction shall adopt initial regulations to:

(1) Provide statewide preschool learning standards, guidelines, and instructional practices that are age and developmentally appropriate;

(2) Establish quality, access and fiscal accountability standards pursuant to this Chapter;

(3) Govern the quality of services offered by preschool providers, consistent with, at a minimum, the provisions of this Chapter and with the applicable provisions of Article 6 (commencing with Section 8230), Article 7 (commencing with Section 8235), Article 8 (commencing with Section 8240) and Article 9 (commencing with Section 8250) of Chapter 2 of Part 6;

(4) Encourage and permit existing child care funds and other non-Preschool for All public funding streams to be used in coordination with Preschool for All funds to enhance the quality of, and to support, full-day programs for families who need it, provided that Preschool for All funds shall only be used for the Preschool for All portion of the day and not for full-day care;

(5) Establish a uniform statewide per-child allocation rate pursuant to Section 14134;

(6) Establish guidelines for submission of county plans pursuant to Article 4 (commencing with Section 14120), including the elements and format of the plan, and the criteria that the Superintendent of Public Instruction will apply to review and approve county plans submitted pursuant to Section 14121;

(7) Establish a fair process and criteria pursuant to which county superintendents of schools shall select Preschool for All program providers under Section 14118;

(8) Establish a process, including fiscal audits and programmatic evaluations, for the Superintendent of Public Instruction and county superintendents of schools to monitor quality, access and fiscal accountability by the county's program providers, and to impose timely and effective sanctions, up to and including removing and replacing program providers pursuant to this Chapter, if the provider fails to guarantee access, quality, or fiscal accountability or fails to comply with the requirements of this Act, state standards, or any provision of law;

(9) Govern the county superintendents of schools' collection and monitoring of uniform longitudinal data on Preschool for All enrollment, components and quality, costs and results;

(10) Limit the expulsion of children from Preschool for All programs; and

(11) Define the term "educational component equivalent to the requirements of the Preschool for All Act," as used in subdivision (b) of Section 14135.

(b) The Superintendent of Public Instruction shall promulgate such additional or amended regulations as necessary for full implementation of this Act.

Sec. 14118. (a)(1) Each county superintendent of schools shall be responsible for planning, implementing, and monitoring a program that is designed to guarantee each eligible child who resides in that county a place in a quality Preschool for All program.

(2) A "quality Preschool for All program" shall mean a program that meets the requirements set forth in subdivision (e) of this Section.

(b) Each county superintendent of schools shall administer Preschool for All programs that meet the requirements of this Chapter. In addition, upon certification of the county plan by the Superintendent of Public Instruction

pursuant to Section 14121 and consistent with the county's plan, county superintendents of schools may operate Preschool for All programs and shall select and approve preschool program providers to provide preschool in the county pursuant to this Chapter.

(c) Preschool for All program providers shall be selected from among any or all qualified program providers, including school districts, colleges, universities and community colleges, classroom-based charter schools that offer at least kindergarten through third grade, and other licensed preschool providers, including centers and family child care programs, provided that the preschool program provider complies with subdivision (e) of this Section.

(d) County superintendents of schools shall ensure priority to programs with teachers and instructional aides with the highest qualifications and with consideration of the local priorities as defined in each county's plan, including programs that:

(1) During the first four years after the effective date of this Act, serve children who reside within the attendance boundary of elementary schools whose most recent California Academic Performance Index statewide rankings were in deciles one through three, inclusive;

(2) Offer a curriculum that is based on age and developmentally-appropriate statewide preschool learning standards, guidelines, and instructional practices and that is coordinated to ensure continuity and articulation with kindergarten through third grade; and

(3) Offer quality professional development opportunities.

(e) All Preschool for All program providers must:

(1) Be licensed by the Department of Social Services and meet and comply with the requirements of this Act and Preschool for All regulations;

(2) Be nonsectarian in their Preschool for All programs, admission policies, employment practices, and all other Preschool for All operations;

(3) Not discriminate against any child or his or her parent or guardian on the basis of ethnicity, national origin, gender, disability, or religion, or any other ground prohibited under federal or state constitutional or statutory law with respect to public elementary or secondary education;

(4) Not charge tuition for the Preschool for All portion of the day, except as provided in subdivision (d) of Section 14132;

(5) Admit all eligible students who wish to attend to the extent that space is available; and

(6) Comply with all of the requirements set forth in Section 14115.

Sec. 14119. (a)(1) Notwithstanding Section 14118, in any county in which at least two hundred million dollars (\$200,000,000) of public funds, in total, has been budgeted or committed on or before the effective date of this Act to fund a county-wide program of voluntary preschool for children one year prior to kindergarten or in any county in which the voters have enacted a ballot measure on or before the effective date of this Act to fund a county-wide program of voluntary preschool for children one year prior to kindergarten, the entity designated to administer the preschool program in that county shall be authorized to submit the plan for that county and shall, for as long as the entity continues to administer the Preschool for All program in that county, be entitled to receive funds from the Preschool for All Fund, in lieu of the county superintendent of schools, and to provide services to the children in that county, provided that the plan complies with all of the requirements of this Act and is approved by the Superintendent of Public Instruction pursuant to Section 14121 and that the entity complies with all of the following:

(A) The Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code);

(B) The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code); and

(C) The Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(2) An entity that is authorized to administer a county Preschool for All program pursuant to this Section shall exercise all of the authority and perform all of the responsibilities assigned to a county superintendent of schools pursuant to this Act, subject to the authority of the Superintendent of Public Instruction under this Act.

(3) In order to avoid duplication of effort, the entity may coordinate its administration of the county program with the county superintendent of schools.

(4) In the event that the entity elects not to submit the plan on behalf of the county, the county superintendent of schools shall submit the county's plan and shall administer the county's Preschool for All program.

(b) An entity that is authorized to administer a county Preschool for All program pursuant to this Section or pursuant to Section 14123 shall be known as an "alternative local administrator." When the term "county superintendent of schools" is used in this Act, the term includes an alternative local administrator.

ARTICLE 4. PLANNING

Sec. 14120 (a)(1) By July 1, 2007, each county superintendent of schools shall prepare and submit a five-year community assessment and plan to the Superintendent of Public Instruction for review and approval pursuant to Section 14121.

(2) On an annual basis, each county superintendent of schools shall prepare and submit a report on the county's progress pursuant to subdivision (b) of Section 14125 to the Superintendent of Public Instruction for review and approval pursuant to Section 14121.

(3) Every five years, county superintendents of schools shall prepare and submit a new plan, provided, however, that the Superintendent of Public Instruction may direct the counties to stagger their submission of new plans.

(b) The five-year community assessment and plan shall be designed to:

(1) Provide Preschool for All programs that have age and developmentally appropriate goals for all children, that comply with all of the requirements of this Act, and that ensure that all children are ready to enter kindergarten;

(2) Guarantee quality, access, and fiscal accountability, pursuant to this Chapter, of Preschool for All programs administered by the county superintendent of schools;

(3) Guarantee that, by September of 2010, all children within the county will have equal access to quality preschool programs;

(4) Guarantee that, by September of 2010, each eligible child shall have a specific space in a Preschool for All program while at the same time permitting parental choice among other Preschool for All programs to the maximum extent reasonable;

(5) Ensure that each eligible child has access to a program within, at most, the same distance of his or her home as the maximum distance between the home of a kindergarten child in the elementary school district in which the eligible child lives and the nearest public kindergarten;

(6) Ensure appropriate outreach to all communities in the county to inform parents of preschool age children, especially parents in underserved communities, about the importance and availability of preschool, and about the process for enrolling their children;

(7) Recognize the central role parents must play in their children's education and encourage parental involvement by providing multiple roles for parents and by helping parents understand how they can assist in the education of their children from preschool to grade 12;

(8) Ensure that Preschool for All programs are coordinated and combined with existing child care programs and other non-Preschool for All funded programs to maximize the extent to which the needs of families of preschool-aged children, including the need for full-day child care consistent with the hours that adult family members work, are met, provided that Preschool for All funds shall only be used for the Preschool for All portion of the day and not for full-day care;

(9) Ensure that children with exceptional needs are identified and that their parents are provided with an opportunity for a developmental assessment of, and associated services for, their child, provided, however, that Preschool for All funds shall not be used to supplant state or federal funding for children with exceptional needs;

(10) Include a five-year estimate and projection of the preschool-aged population down to the smallest demographic unit for which data is available and that projects over five years the percentage of children the county expects to serve;

(11)(A) Ensure that, during the first ten years after the effective date of this Act, the county develops and implements a plan to construct, purchase or renovate facilities to serve enrolled children and to build capacity for eligible children, and that, as part of that plan, the county sets aside in a reserve account funds to facilitate implementation of that plan, subject to the following:

(i) Only public entities may use funds from the Preschool for All Fund for the purchase, construction, or renovation of facilities, except as permitted in clause (ii). Title to any facilities constructed, purchased or renovated with such funds shall remain in the public sector to the same extent as required for public

school facilities, and the facilities shall be dedicated to Preschool for All program use for as long as there is a need.

(ii) Preschool for All program providers, including providers that are not public entities, may use Preschool for All funds to engage in modest renovations of existing facilities, especially to ensure access to children who reside within the attendance boundary of elementary schools whose most recent California Academic Performance Index statewide rankings were in deciles one through three, inclusive, subject to the county superintendent of schools granting an application for funding for that purpose.

(B) The determination of the county superintendent of schools regarding the amount of funds required for the construction, purchase, and renovation of facilities shall be based on all of the following:

(i) An inventory of potentially available school space and licensed preschool or childcare facilities, or both, within the county.

(ii) An analysis of the most cost-efficient manner of providing facilities, including use of existing appropriate public facilities wherever possible.

(iii) A five-year estimate and projection of the preschool-aged population, that uses the smallest demographic unit for which data is available.

(C) Preschool for All program providers, including providers who are not public entities, may lease facilities using Preschool for All funds that they receive pursuant to their program provider agreement with the county.

(12) Ensure that, during the first four years after the effective date of this Act, and after setting aside funds in a facilities reserve account, priority in enrollment shall be given to children who reside within the attendance boundary of elementary schools whose most recent California Academic Performance Index statewide rankings were in deciles one through three, inclusive, and that funding priority shall be given to the highest quality programs that serve those children;

(13) Meet the need for qualified preschool teachers and instructional aides who are trained to meet the developmentally appropriate goals of the children they serve and who are compensated similarly to teachers and instructional aides in the K-12 public school system in that county for training and experience they gain after they have met the standards set by subdivisions (a) and (b) of Section 14111;

(14) Ensure, based on research, that English-language learners meet school readiness goals, including making progress towards learning the English language, by, among other things, providing qualified teachers and instructional aides to accomplish this goal;

(15) Coordinate with existing child care programs and services for children age four and younger in the county;

(16) Coordinate with local elementary schools and the school districts in which they are situated;

(17) Collect and monitor uniform longitudinal data on Preschool for All enrollment, components and quality, and costs and results across the county, including data consistent with statewide evaluation;

(18) Include a schedule for the distribution of the county's Preschool for All funds to Preschool for All program providers in the county based on a tiered payment system that provides an incentive to providers who make progress toward meeting the statewide quality standards and that takes into account other factors relevant to quality and access;

(19) Guarantee that the Preschool for All programs administered by the county superintendent of schools will comply with the requirements of this Chapter, regulations adopted pursuant to this Chapter, and other laws; and

(20) Include a detailed budget that addresses the county's projected costs, including costs for classroom support, program planning and community outreach, workforce recruitment and training, monitoring, the purchase of equipment, and the construction, renovation, purchase, or lease of facilities.

(c)(1) Each county superintendent of schools shall establish a local Advisory Committee to ensure that parents, preschool administrators, teachers and other staff, other early learning professionals, business leaders and other preschool advocates have opportunities to advise the assessment, planning and implementation process. The county superintendent shall also consult with local school districts.

(2)(A) Prior to submitting its plan to the Superintendent of Public Instruction pursuant to subdivision (a), each county superintendent of schools shall conduct at least one public hearing to obtain comments from the public.

(B) Prior to submitting its annual report to the Superintendent of Public Instruction pursuant to subdivision (a), each county superintendent of schools shall conduct at least one public hearing to obtain comments from the public.

Sec. 14121. The Superintendent of Public Instruction shall review the plan and annual report required by Section 14120 and if the plan and report meet the requirements of this Act shall certify the plan's compliance to the Controller. For any fiscal year, the Controller shall not distribute funds from the Preschool for All Fund pursuant to Section 14134 to any county superintendent of schools unless and until the Superintendent of Public Instruction has certified the county plan's compliance for that fiscal year.

Sec. 14122. (a) If a county is unable to timely comply with subdivision (b) of Section 14110 because the county, as a result of circumstances beyond its control, does not have sufficient facilities, the county superintendent of schools may apply to the Superintendent of Public Instruction for a one-year extension. The application, which shall be made available to the public and posted on the county superintendent of schools' Internet web site, shall identify the steps the county superintendent of schools has taken to comply with subdivision (b) of Section 14110 and the circumstances that caused the need for the extension and shall explain why those circumstances are beyond the county's control. Upon receipt of an application, the Superintendent of Public Instruction shall conduct a public meeting in the county to obtain public comment regarding the county's application. Provided that the county superintendent of schools submits a plan to comply with subsection (b) of Section 14110, the Superintendent of Public Instruction may grant the extension. The Superintendent of Public Instruction's determination regarding the county's application shall be set forth in a public report, which shall be made available to the public and posted on the Superintendent's Internet web site and which shall identify the steps the Superintendent of Public Instruction has taken to avoid the need for an extension. Counties shall be limited to two one-year extensions.

(b) Facilities constructed, acquired, or otherwise financed with Preschool for All funds shall be excluded from the existing school building capacity of a county office of education or school district pursuant to the Leroy F. Greene School Facilities Act of 1998, Chapter 12.5 (commencing with section 17070.10) of Part 10.

(c) School districts that are considering selling or leasing public school space shall include the need for Preschool for All facilities in the district in any needs assessment performed in connection with the proposed sale or lease.

ARTICLE 5. ACCOUNTABILITY

Sec. 14123. (a)(1) The Superintendent of Public Instruction shall monitor county superintendents of schools in their delivery of Preschool for All programs by, among other things, conducting fiscal audits and programmatic evaluations and imposing timely and effective sanctions, up to and including removing and replacing fiscal and administrative authority, in the event of a failure to guarantee access, quality, or fiscal accountability, or to comply with the requirements of this Act or the county's plan.

(2) If the Superintendent of Public Instruction determines that a county superintendent of schools is not adequately providing services required by this Chapter, or is not complying with this Chapter, with other laws, or with the county's plan, the Superintendent of Public Instruction may temporarily assume control of the county program until such failure is corrected, select and approve program providers, or appoint an alternative local administrator who shall exercise all of the authority and perform all of the responsibilities assigned to the county superintendent of schools pursuant to this Act, subject to the authority of the Superintendent of Public Instruction under this Act.

(3) The Superintendent of Public Instruction shall also have the authority to remove a program provider in any county, if the provider fails to guarantee access, quality, or fiscal accountability, or fails to comply with the requirements of this Act, state standards or any provision of law, or to add a program provider in order to ensure compliance with the requirements of this Act or the county plan.

(b) The Superintendent of Public Instruction shall collect and monitor uniform longitudinal data on Preschool for All enrollments, quality and components, costs, and results across all California counties. School districts shall be required to provide longitudinal data at the request of the Superintendent of Public Instruction.

(c) In each county or region, the Superintendent of Public Instruction shall appoint an independent Parental Advocate. The Parental Advocate shall attend meetings of the local Advisory Committee, establish effective methods, responsive to parents and others, for soliciting concerns, including but not limited to local access and quality, and for expediting the resolution of such concerns on behalf of parents. The Parental Advocate shall ensure that parents can access the Parental Advocate's services by engaging in outreach appropriate for parents from communities being served. The Parental Advocate shall report to the office of the Superintendent of Public Instruction, who shall allocate funds to the Parental Advocate in each county or region pursuant to Section 14134 based on the population of preschool-eligible children in each county, with a maximum and

minimum amount determined by the Superintendent of Public Instruction, to ensure the effectiveness of the Parental Advocate.

Sec. 14124. (a) Subject to the approval of, and consistent with regulations adopted by, the Superintendent of Public Instruction, each county superintendent of schools shall establish a process, including fiscal audits and programmatic evaluations, for monitoring access, quality, and fiscal accountability by the county's program providers and for imposing timely and effective sanctions, up to and including removing and replacing program providers if the provider fails to guarantee access, quality or fiscal accountability or fails to comply with the requirements of this Act, state standards or any provision of law.

(b) For preschool programs operated by the county superintendent of schools, the Superintendent of Public Instruction shall perform the duties imposed on the county superintendent of schools in this Section, consistent with the county's process for monitoring access, quality, and fiscal accountability.

Sec. 14125. (a) Each county superintendent of schools shall prepare and file with the Superintendent of Public Instruction an annual, independent audit of the funds received from the Preschool for All Fund. The audit may be prepared separately or as part of any annual audit required by the State. It shall show how the funds were spent by category and program.

(b) Each county superintendent of schools shall prepare and file with the Superintendent of Public Instruction an annual report regarding the county's progress in serving eligible children in quality Preschool for All programs and satisfying the components of the county's plan, including the enrollment rate of preschool-age children in Preschool for All programs in the county.

(c) The Superintendent of Public Instruction shall review and, if satisfactory, approve the audit and report. If the Superintendent of Public Instruction determines that the audit or report is unsatisfactory, he or she shall return it to the county superintendent for amendment. If, after the county superintendent has had an opportunity to submit an amended audit or report, the Superintendent of Public Instruction determines that the audit or report is unsatisfactory, he or she shall have the right to exercise the authority provided in Section 14123. County superintendents of schools and the Superintendent of Public Instruction shall post the audits and reports required pursuant to this Section on their Internet web sites and shall provide copies of the audits and reports to the Preschool for All Accountability Oversight Committee, established in Section 14129.

Sec. 14126. (a) The Superintendent of Public Instruction shall annually prepare a clear and comprehensible report, which shall be posted on the Superintendent of Public Instruction's Internet web site and provided to the Preschool for All Accountability Oversight Committee established in Section 14129, of the following:

(1) The status of each county's use of Preschool for All funds, showing the total amount allocated to each county and the expenditures made against those allocations.

(2) An assessment of each county's progress in serving eligible children in quality Preschool for All programs and meeting the components of the county's plan.

(3) The status of the Superintendent of Public Instruction's use of Preschool for All funds for the purposes set forth in subdivision (a) of Section 14134 and Section 14130, showing the total amount allocated and the expenditures made against those allocations.

(b) By July 1, 2012, the Superintendent of Public Instruction shall identify, based on the counties' annual progress report, those counties for which preschool enrollment rates are significantly lower than the state average and shall conduct a programmatic evaluation in each such county to determine whether the county superintendent of schools has complied with the requirements of this Act.

Sec. 14127. (a) After a period of time sufficient to effectively measure longitudinal results, and as necessary thereafter, the Governor shall engage a qualified neutral evaluator to conduct a statewide fiscal audit and programmatic evaluation of the Preschool for All program. The Governor may also engage a qualified neutral evaluator to conduct a fiscal audit and programmatic evaluation of the Preschool for All program in any county.

(b) A programmatic evaluation conducted pursuant to this Section shall include, but shall not be limited to, an assessment of:

(1) Program integrity, including consideration of access, quality, equity and the consistency of the program with this Act; or in the case of an individual county, with this Act and with the county's plan;

(2) The longitudinal effect of the Preschool for All program;

(3) The effectiveness of various components of preschool;

(4) The cost/benefit ratio of the investment in preschool to society and for the participants over time;

(5) The quality of the Preschool for All infrastructure and its ability to meet the goals of the Preschool for All Act;

(6) Awareness and engagement of parents about the overall structure and effectiveness of the program;

(7) The county's process for selecting and approving Preschool for All program providers, including the county's compliance with the requirements of this Act and the county's plan;

(8) The effectiveness of financial aid and other support to students pursuing courses and degrees in early learning in ensuring a qualified teaching and instructional aide staff for Preschool for All programs;

(9) The effectiveness of courses and degrees in early learning developed by California public colleges and universities pursuant to this Act in ensuring a qualified teaching and instructional aide staff for Preschool for All programs; and

(10) Whether Preschool for All program providers are compensating their teachers and instructional aides in a manner that is similar to teachers and instructional aides in the K-12 public school system in that county for training and experience they gain after they have met the standards set by subdivisions (a) and (b) of Section 14111.

(c) Audits and evaluations conducted pursuant to this section shall be reported to the Legislature and the Superintendent of Public Instruction and posted on the Superintendent of Public Instruction's Internet web site and shall be paid for out of the Preschool for All Fund.

Sec. 14128. The Legislature shall set penalties, including fines, and/or criminal penalties for administrators who willfully misuse funds appropriated and allocated pursuant to Section 4 of Article IX of the California Constitution or who willfully cause the cap on expenditures for administrative purposes set forth in Section 14130 to be exceeded.

Sec. 14129. (a) The Preschool for All Accountability Oversight Committee is hereby established and shall be chaired by the Controller. The Committee shall, on an annual basis:

(1) Review the annual report prepared by the Superintendent of Public Instruction pursuant to Section 14126 and the annual independent audit and report prepared by each county superintendent of schools pursuant to Section 14125;

(2) Review fiscal audits and programmatic evaluations conducted pursuant to Section 14127 and longitudinal data collected pursuant to subdivision (b) of Section 14123; and

(3) Make public recommendations to the Superintendent of Public Instruction and the Legislature regarding the effective implementation and operation of the Preschool for All Act, including, but not limited to, ensuring access, quality, and fiscal accountability.

(b) The Governor, the Lieutenant Governor, the Controller, the Treasurer, the Attorney General, the Senate Committee on Rules, and the Speaker of the Assembly shall appoint members of the Committee as follows:

(1) The Governor shall appoint an early learning professional representative and a higher education representative.

(2) The Lieutenant Governor shall appoint a parent representative and a public kindergarten through grade 12 administrator representative.

(3) The Controller shall appoint a preschool administrator representative.

(4) The Treasurer shall appoint a business representative.

(5) The Attorney General shall appoint a preschool advocate representative.

(6) The Senate Committee on Rules shall appoint a preschool teacher or instructional aide representative.

(7) The Speaker of the Assembly shall appoint a public kindergarten through grade 12 teacher representative.

(c) Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

ARTICLE 6. FUNDING

Sec. 14130. No more than six percent of the funds distributed from the Preschool for All Fund may be used for state and county administrative purposes, as determined by the Superintendent of Public Instruction pursuant to subdivision (a) of Section 14116.

Sec. 14131. Based on the funds received in the Preschool for All Fund between January 1, 2007, and June 15, 2007, the Superintendent of Public Instruction shall determine the amount necessary for the counties to satisfy the planning requirements of Section 14120, and from that amount, shall authorize the Controller to disburse funds to each county based on the number of preschool-eligible children in the county, with a maximum and minimum amount determined by the Superintendent of Public Instruction.

Sec. 14132. (a) The Controller shall establish the Preschool for All Reserve Fund in the State Treasury. Moneys in this fund shall be held in trust for the purposes of this Act and may not be used for any purpose other than the purposes specified in this Chapter. Moneys in this fund may not be loaned to the state General Fund or to any other fund of the state, to a county general fund or any other county fund, or to any other entity, and may not be borrowed by the Legislature or any other entity, for any purpose other than the purposes authorized by this Act.

(b)(1) During the first ten years after the effective date of this Act, the Superintendent shall, on an annual basis, determine the amount of funds necessary to ensure that the Preschool for All Reserve Fund contains, by the end of the tenth year, funds equal to one year's expenses for the Preschool for All Act at full implementation and shall direct the Controller to transfer that amount from the Preschool for All Fund to the Preschool for All Reserve Fund.

(2) Thereafter, the Superintendent of Public Instruction shall, on an annual basis, determine the amount of funds necessary to maintain in the Preschool for All Reserve Fund an amount equal to one year's expenses for the Preschool for All Act at full implementation and shall direct the Controller to transfer that amount from the Preschool for All Fund to the Preschool for All Reserve Fund, except as follows:

(A) In any year in which the balance in the Preschool for All Reserve Fund falls below one year's operating expenses at full implementation as the result of the allocation of funds from the Preschool for All Reserve Fund pursuant to subdivision (c) of this Section, Preschool for All funds shall not be allocated to the Preschool for All Reserve Fund that year.

(B) Upon the Superintendent of Public Instruction's determination that the circumstances that required the allocation of funds pursuant to subdivision (c) of this Section no longer exist, the Superintendent of Public Instruction shall, on an annual basis, determine the amount of funds necessary to ensure that the Preschool for All Reserve Fund contains, as soon as possible, but not later than the end of the eighth year following the determination, funds equal to one year's expenses for the Preschool for All Act at full implementation and shall direct the Controller to transfer that amount from the Preschool for All Fund to the Preschool for All Reserve Fund.

(c) In any year in which the state experiences a decline in the uniform statewide per-child allocation rate pursuant to Section 14134 such that the allocation of funds is insufficient to maintain quality and access for all children, the Superintendent of Public Instruction may, to further the purposes of this Act, direct the Controller to allocate funds from the Preschool for All Reserve Fund to the Preschool for All Fund.

(d)(1) The Superintendent of Public Instruction shall declare that a Preschool for All funding emergency exists if the balance in the Preschool for All Reserve Fund is projected to fall below ten (10) percent of the average annual costs of the program, excluding the costs incurred pursuant to subdivision (b) of this Section and Section 14134, during the three preceding fiscal years for which data is available.

(2) In the event of a Preschool for All funding emergency, as defined in subparagraph (1) of this subdivision, the Legislature may not use General Fund revenues to fund this program; however, the Legislature may, by a vote and with approval by the Governor, for a single year, as permitted by subdivision (a) of Section 4 of Article IX of the California Constitution, institute a parent contribution.

(3) The Superintendent of Public Instruction shall ensure that no child shall be denied access based upon an ability to pay.

Sec. 14133. (a) Funds appropriated pursuant to Article XVI, section 8 of the California Constitution and other funds dedicated to school districts and county offices of education other than by this Act shall not be required to fund the programs provided pursuant to the Preschool for All Act.

(b) Nothing in this Act shall be construed to create or imply an obligation to fund, or a right to, transportation or full-day care.

Sec. 14134. (a)(1) After setting aside the funds allocated to the Preschool for All Reserve Fund, established pursuant to Section 14132, the Superintendent of Public Instruction shall determine the amount of funds necessary to:

(A) Achieve a qualified workforce by establishing a workforce development plan, developing and providing college-level courses and degree programs in early learning, and by establishing a financial aid program pursuant to Section 14113;

(B) Create and implement an early learning credential pursuant to Section 14112;

(C) Ensure that, in each county or region, the Parental Advocate has the funds necessary to carry out his or her responsibilities under subdivision (c) of Section 14123;

(D) Engage in public outreach pursuant to subdivision (b) of Section 14116;

(E) Monitor and audit county programs pursuant to this Act; and

(F) Fund a state-level facilities reserve fund, which is hereby established in the State Treasury, during the first ten years after the effective date of this Act, in order to ensure that counties comply with subdivision (b) of Section 14110 and to ensure access and quality. The Superintendent of Public Instruction may allocate moneys from this fund, consistent with paragraph (3) of subdivision (c) of Section 14116, to provide additional funding to counties whose per child allocation cannot, consistent with fair access for the county's children, meet the county's facility needs, as demonstrated by the county's plan pursuant to paragraph (11) of subdivision (b) of Section 14120.

(2) Based on the determination required pursuant to paragraph (1) of this subdivision, the Superintendent of Public Instruction shall authorize the Controller to disburse funds from the Preschool for All Fund to carry out the purposes of this subdivision.

(b) All other funds shall, on an annual basis, be allocated to a fund established by the Controller for each county based on a uniform statewide per-child allocation rate, established by the Superintendent of Public Instruction, for preschool-eligible children in the county, for the period from July 1, 2006, through July 1, 2016. The Superintendent of Public Instruction shall authorize the Controller to disburse sufficient funds, as determined by the Superintendent of Public Instruction, to each county from that county's account, to make

expenditures, as approved in the county's plan, to meet the requirements of this Act by serving enrolled children and by building capacity for eligible children. If a county fails to spend funds according to its approved plan, the Superintendent of Public Instruction may direct the Controller to return those funds to the Preschool for All Fund.

(c) After July 1, 2016, the highest priority for funding shall be to serve children in Preschool for All programs. Therefore, the Controller shall, on an annual basis, allocate funds from the Preschool for All Fund to each county's account based on a uniform statewide per-child allocation rate, established by the Superintendent of Public Instruction, for children enrolled in Preschool for All programs in that county. The Superintendent of Public Instruction shall authorize the Controller to disburse sufficient funds, as determined by the Superintendent of Public Instruction, to each county from that county's account to make expenditures approved in the county's plan. However, prior to the allocation of funds, the Superintendent of Public Instruction shall first determine, and shall direct the Controller to set aside, the amount of funds necessary to:

(1) Carry out the purposes of subdivision (a) of this Section; and

(2) Ensure that counties whose costs, as approved in the county's plan, exceed their allotment as the result of circumstances beyond the county's control, have the resources necessary to serve enrolled children and to build capacity for eligible children. From this set-aside amount, the Superintendent of Public Instruction may allocate sufficient funds to those counties to make the expenditures approved in their plans.

Sec. 14135. (a) County superintendents of schools shall select and approve the providers of the following programs if the providers apply to participate in the county's Preschool for All program and they meet Preschool for All program requirements:

(1) The federal Head Start program.

(2) Child Care and Development Services Act (Chapter 2 (commencing with Section 8200) of Part 6) programs, including all of the following:

(A) Migrant child care and development programs pursuant to Article 6 (commencing with Section 8230) of Chapter 2 of Part 6;

(B) State preschool programs, both part-day and full-day, pursuant to Article 7 (commencing with Section 8235) of Chapter 2 of Part 6;

(C) General child care and development programs pursuant to Article 8 (commencing with Section 8240) of Chapter 2 of Part 6;

(D) Family child care home education networks pursuant to Article 8.5 (commencing with Section 8245) of Chapter 2 of Part 6;

(E) Child care and development services for children with exceptional needs pursuant to Article 9 (commencing with Section 8250) of Chapter 2 of Part 6; and

(F) Campus child care programs reimbursed pursuant to Section 8330.

(b) Participating programs shall be entitled to a quality enhancement payment equal to the difference between the per child amount for Preschool for All program providers in that county for which they would qualify and the average per child amount of state and federal dollars already received by these programs for that portion of the day for which the program provides an educational component equivalent to the requirements of the Preschool for All Act. State and federal funding for the non-educational components of the program shall not be included in this calculation.

(c) Moneys in the Preschool for All Fund or in any other fund established pursuant to this Act shall not be used to supplant state funds for the Child Care and Development Services Act (Chapter 2 (commencing with section 8200) of Part 6).

Section 8. Section 17041.1 of the Revenue and Taxation Code is hereby added to read:

Sec. 17041.1. For each taxable year beginning on or after January 1, 2007, in addition to any other taxes imposed by this part, an additional tax at the rate of 1.7 percent shall be imposed on that portion of a taxpayer's taxable income in excess of any of the following:

(a) Four hundred thousand dollars (\$400,000) in the case of an individual who is not a married individual, or a married individual who does not make a single return jointly with his or her spouse;

(b) Five hundred and forty-four thousand and four hundred and sixty-seven dollars (\$544,467) in the case of a head of household; and

(c) Eight hundred thousand dollars (\$800,000) in the case of a married couple who make a joint return.

(d) Notwithstanding Government Code section 13340, the proceeds of the tax imposed by this Section shall be deposited in the Preschool for All Fund and shall be continuously appropriated, without regard to fiscal year, solely for the purposes of the Preschool for All Act.

(e) Based on the procedures set forth in Section 19602.5, the Franchise Tax Board, in consultation with the Legislative Analyst shall, by November 15, 2006, establish by regulation a transfer rate and a mechanism for adjustment that permits estimated revenue from the additional tax imposed by this Section to be transferred by the Controller to the Preschool for All Fund on a monthly basis, subject to an adjustment based on the procedures set forth in Section 19602.5 to account for any difference between estimated revenues and actual revenues.

Section 9. Section 19602 of the Revenue and Taxation Code is hereby amended to read:

Sec. 19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, and revenues deposited pursuant to Section 19602.5, and revenues collected pursuant to Section 17041.1, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

Section 10. Section 3540.1 of the Government Code is hereby amended to read:

Sec. 3540.1. As used in this chapter:

(a) "Board" means the Public Employment Relations Board created pursuant to Section 3541.

(b) "Certified organization" or "certified employee organization" means an organization which has been certified by the board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

(c) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

(d) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with that public school employer. "Employee organization" shall also include any person of the organization authorized to act on its behalf.

(e) "Exclusive representative" means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

(f) "Impasse" means that the parties to a dispute over matters within the scope of representation have reached a point in meeting and negotiating at which their differences in positions are so substantial or prolonged that future meetings would be futile.

(g) "Management employee" means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer subject to review by the Public Employment Relations Board.

(h) "Meeting and negotiating" means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation and the execution, if requested by either party, of a written document incorporating any agreements reached, which document shall, when accepted by the exclusive representative and the public school employer, become binding upon both parties and, notwithstanding Section 3543.7, is not subject to subdivision 2 of Section 1667 of the Civil Code. The agreement may be for a period of not to exceed three years.

(i) "Organizational security" is within the scope of representation, and means either of the following:

(1) An arrangement pursuant to which a public school employee may decide whether or not to join an employee organization, but which requires him or her, as a condition of continued employment, if he or she does join, to maintain his or her membership in good standing for the duration of the written agreement. However, an arrangement may not deprive the employee of the right to terminate his or her obligation to the employee organization within a period of 30 days following the expiration of a written agreement.

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to

pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first.

(j) “Public school employee” or “employee” means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

(k) “Public school employer” or “employer” means the governing board of a school district, a school district, a county board of education, a county superintendent of schools, or a charter school that has declared itself a public school employer pursuant to subdivision (b) of Section 47611.5 of the Education Code *and shall include any “public school employer” or “employer” that is subject to, and receives funding under, the Preschool for All Act.*

(l) “Recognized organization” or “recognized employee organization” means an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

(m) “Supervisory employee” means any employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend that action, if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(n)(1) *“Preschool for All program employer” or “employer” means a licensed preschool provider employer that is subject to, and receives funding under, the Preschool for All Act.*

(2) *“Preschool for All program employee” or “employee” means the employees of a “Public employer” or “employer” as defined in subparagraph (k) of this Section or a “Preschool for All program employer” as defined in subparagraph (n)(1) of this Section.*

(3) *“Employee organization” under the “Preschool for All Program” shall mean an employee organization as defined in subdivision (d) of this Section, or any employee organization which includes employees of a licensed preschool provider employer that is subject to, and receives funding under, the Preschool for All Act and has as one of its primary purposes representing those employees in*

their relations with their "Preschool For All Program" employer. "Employee organization" shall also include any person such organization authorizes to act on its behalf.

(4) For purposes of coverage, "Preschool for All program employers," "Preschool for All program employees," and "Preschool for All program employee organization," all as defined in this Section, shall be included in all sections of this Chapter 10.7.

Section 11. Effective Date.

This Act shall take effect the day after the election at which it is approved; provided, however, that if the personal income tax for the income brackets specified in Section 8 of this Act is increased by the same rate as the Preschool for All Act, or by a higher rate, prior to June 6, 2006, this Act shall not take effect until January 1, 2010. If, for any reason, the effective date of this Act is delayed, all deadlines in this Act shall be extended for a period of time commensurate with the delay.

Section 12. Legal Challenge.

Any challenge to the validity of this Act must be filed within six months of the effective date of this Act.

Section 13. Amendment.

The statutory provisions of this Act may be amended to carry out its purpose and intent by statutes requiring a 2/3 vote for enactment.

Section 14. Severability.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 15. Conflicting Initiatives.

In the event that this measure and another initiative measure or measures establishing voluntary universal preschool or increasing personal income tax rates shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the

provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.