

## **INITIAL STATEMENT OF REASONS**

### **SCHOLARSHARE INVESTMENT BOARD**

#### **Title 5, Sections 31010, 31012, 31014, 31015, 31016, 31017 REGARDING THE CALIFORNIA KIDS INVESTMENT AND DEVELOPMENT SAVINGS PROGRAM**

### **INTRODUCTION**

The Scholarshare Investment Board (SIB) is organized and operated pursuant to sections 69980-69994 of the California Education Code. In 2022, the California Kids Investment and Development Savings Program (CalKIDS) was launched. This program provides each child born in California and eligible public-school students with an initial deposit to begin saving for college through accounts developed and managed by SIB.

### **PROBLEM STATEMENT**

The Legislature enacted the CalKIDS Program into law (Cal. Educ. Code tit. 3, D. 5, Pt. 42, Ch. 2, art. 19.5, §§ 69996 – 69996.9) because it found that eligible children in California needed a mechanism to begin saving for higher education. In 2022, the CalKIDS Program launched and the SIB adopted regulations to support the beginning of the program. As the program transitioned from development to implementation, numerous issues surrounding available budget, statutory compliance, and the ability for participants to make changes to their account were realized. The proposed regulations address multiple barriers to program implementation not addressed in current regulations or existing state statute.

Existing regulations (Cal. Code Regs. tit.5, D.4.5, Ch.3), detail in Section 31012 (Deposits) list specific examples of financial incentives that may be offered by the program for newborn participants. The current regulations do not, however, offer incentive opportunities for the student participants of the program. Although the regulations currently in effect allow the Executive Director to modify the incentive structure, they do not give authority to offer additional incentives to this population or for completing different requirements not currently listed in regulations. The existing regulations also do not provide guidance for participants on how they may learn about new incentives, how much money they could receive in incentives, or when they may see the incentives in their CalKIDS account. Related, the regulations and statute do not clearly define activities which could be eligible to receive incentives.

In the 2022-2023 State Budget, the Legislature changed the program's requirements to provide all newborns born on or after July 1, 2023, at least \$100. The current regulations maintain that all beneficiaries enrolled at birth will receive a seed deposit of at least \$25. Keeping this language in regulations is not consistent with the current statute.

Education Code § 69996.9(a)(3) specifies that a beneficiary may not receive multiple enhanced deposits. Additionally, in describing the California Department of Education's (CDE) requirement to transfer data annually and for the Board to create and fund CalKIDS accounts, Education Code Section 69996.9(2)(a) states that SIB shall open and fund account with an enhanced deposit for these children unless their account has already been established pursuant to the California Department of Public Health's (CDPH) requirement to provide birth data to the Board for the creation of accounts. Current CalKIDS statute and regulations do not address situations where the Board receives data on the same individual child year-over-year in its data exchange provided by the CDE. This is particularly relevant if a child is held back due to academic performance and continues to meet the eligibility criteria to be included in the CDE's requirements for an annual data transfer. This problem will be addressed with additional language in Section 31012 (Deposits) to be in compliance with the statutory requirement not to provide beneficiaries multiple enhanced deposits.

Since the program's launch, SIB has evaluated communication with participants and has chosen to update particular aspects of the program which are currently not incorporated into regulations. While Section 301014 (Opt-Out) currently informs the public for how a participant may opt-out of the program, SIB staff have identified numerous changes needed to the form. These changes include the addition of contact information, updated guidance for how to complete the form, and design alterations. Without this form, participants may continue to experience issues in opting-out of the program if they choose to.

The registration process currently detailed in the regulations does not contain key components that could help clarify procedural steps for a student participant. Section 31015 will address this issue by including additional language to better guide the participant. Similarly, the claims and withdrawal process in Section 31016 could include more specific information. Unfortunately, many students insert their high school identification number during this process instead of their new student identification number at the selected institution of higher education. The proposed change to Section 31016(c)(4) will clarify this to better guide the public.

Additionally, the program has received numerous inquiries from beneficiaries and participants for how they may update their personal information in the program's online portal, forfeit funds allocated to them, or cancel a withdrawal. For example, if a participant's name was misspelled or changed, SIB does not currently have a process to verify and correct this. Section 31015 will address this problem by requiring certain information for SIB to make appropriate changes. There are also cases where participants wish to relinquish funds provided to them because they do not consider themselves to be a homeless or foster student, for which they are entitled to additional funds. While SIB wishes to honor their request to relinquish funds, SIB requires a formal process to document these requests, which will be addressed in Section 31016. Further, as the program seeks to engage college students, there have been situations where a student requests their funds be sent to a particular institution, only later to disenroll from that institution. SIB needs the student's authorization to cancel a check sent by the program

on the student's behalf. Section 31017 will create a formal process for this. Incorporating the applicable forms for beneficiaries and participants to complete on a voluntary basis will be an important step to address current administrative gaps.

Lastly, as the CalKIDS program sends distributions to institutions of higher education through withdrawal requests, institutions have shared with SIB the need to modify the requirements we collect from beneficiaries. Section 31016 (Claims and Withdrawal Process) currently outlines a process for a participant to send funds to an eligible institution of higher education of their choice. There are situations where institutions of higher education have needed to verify a student's identity and have therefore contacted SIB. The current regulations do not authorize SIB to disclose their information. Similarly, SIB has encountered situations where a participant or beneficiary sends funds to a school for which they do not currently attend. This may happen if a student is a senior in high school and intends to enroll at the school at a later date. Unfortunately, when this situation occurs, the institution is unable to apply the funds sent by the student through the CalKIDS Program. Section 31016 (Claims and Withdrawal Process) will include additional language to address this problem by requiring the student to self-certify that they are enrolled as active students at the institution.

#### **PURPOSE**

Section 31010(e): The purpose of including this subsection is to clearly define the term "engage," as it relates to interacting with the CalKIDS account for the purpose of financial incentives.

Section 31012(a): The purpose of repealing the current language in this subsection is to remove language that is in conflict with state statute. Education Code 69996.3(f) describes the seed deposit amount required for newborn participants. Statute makes specific that newborns born before Fiscal Year 2022-2023 shall receive \$25 and newborns born in Fiscal Year 2023-2024 and thereafter are entitled to \$100. Therefore, additional clarification is not required in regulations.

The purpose of amending this provision is to include new language to clarify that funds can only be provided by the program directly.

Section 31012(a)(1) and (2): The purpose of deleting the specified incentives in subsections (1) and (2) is to allow the Board flexibility to modify incentives in the event of budgetary changes.

Section 31012(b): The purpose of amending this section is to clarify that CalKIDS accounts and ScholarShare 529 accounts are separate accounts, where a beneficiary can create and add monies to their ScholarShare 529 but cannot add funds to their CalKIDS account.

Section 31012(c): The purpose of amending this section is to clarify how financial incentives for newborns will be administered, including how participants will be

informed of new financial incentives available and when they will be able to see the incentives in their CalKIDS account.

Section 31012(d): The purpose of amending this section is to allow financial incentives to the student population of CalKIDS. The provision also explains how those incentives will be communicated to participants.

Section 31012(e): The purpose of this subsection is to address an inconsistency in current state law regarding who may receive an enhanced deposit based on the data transfer process between SIB and the CDE.

Section 31012(g): The purpose of this subsection is to provide greater transparency to the public in the event financial incentives are no longer available.

Section 31014(a): The purpose of amending this subsection is to replace the current opt-out form with a new form to collect additional information and create a more simplified experience for the participant or beneficiary compared to the current form incorporated into regulations. This process is voluntary for participants or beneficiaries.

Section 31015(b): The purpose of amending this subsection is to clarify information for a student participant in the registration process by ensuring they include the correct county the student was first registered with by the Department of Education when they first enrolled in the program.

Section 31015(c): The purpose of this subsection is to provide participants a process for how they can change personal information associated with their CalKIDS account. This may include changes to their listed name or birth. This process is voluntary for participants or beneficiaries. SIB will use the information provided by the individual through this form and verify it using the Electronic Verification of Vital Events (EVVE) system hosted by the National Association for Public Health Statistics and Information Systems (NAPHSIS). In discussing the problems around verifying changes to a legal record, CDPH recommended SIB procure EVVE by NAPHSIS. SIB is currently in the process of procuring this resource.

Section 31016(c): The purpose of amending this subsection is to clarify that students need to input their new student identification number associated with the selected institution for which they are requesting funds be sent to. This will ensure participants include the appropriate information to process a distribution.

Section 31016(e): The purpose of this subsection is to require the student to authorize SIB the ability to share personally identifiable information with the Eligible Institution they have selected for the purpose of identifying their account.

Section 31016(f): The purpose of this subsection is to require beneficiaries to self-certify that they are enrolled as active students at the selected institution.

Section 31016(g): The purpose of this subsection is to provide beneficiaries or participants a process to cancel withdrawals they have made in the event they no longer attend the institution for which they requested funds be sent to. This process is voluntary for participants or beneficiaries.

Section 31017(d): The purpose of this subsection is to provide beneficiaries or participants a process to forfeit funds in the event they wish to relinquish funds designated for them back to the program without removing themselves from the program completely. This process is voluntary for participants or beneficiaries.

## **NECESSITY**

Section 31010(e): Adding a new definition provides clarity to the term “engage,” as seen in both the statute and proposed regulations.

Section 31012, subsections (a), (b), (c), (d), (e), (g): Eliminating the current regulatory provision for all newborns to receive at least \$25 is necessary because it conflicts with state statute. Education Code 69996.3(f) was amended as a result of the 2023-2024 State Budget, providing SIB additional funds to give newborns moving forward a seed deposit of at least \$100. It is necessary to remove the current regulatory provision to be in compliance with state statute.

The new section begins by articulating the relationship between CalKIDS and ScholarShare 529. It then creates a new framework for creating financial incentives for newborns. Similar language is also applied to subsection (e) as it relates to student participants because there is no current statutory or regulatory language authorizing incentives for student participants. Education Code Section 69996.3(f) provides that SIB may offer financial incentives to beneficiaries for particular reasons, including verifying receipt of the account and linking the account to a ScholarShare 529 account. Since those two examples are listed in state statute, it is necessary to remove similar provisions in subsections (1) and (2) to remove duplicity. The statute further states that an incentive may be applied for “engaging” with the CalKIDS account by means approved by the Board. This term, “engaging,” is not defined in the applicable sections of state statute governing the CalKIDS Program. As such, statute infers that the Board will be expected to create financial incentives for activities that allow participants to interact with their CalKIDS account. In a review of similar programs in other states, SIB has learned that creative campaigns are important to increase participation and drive engagement. These efforts often require financial support and incentives to attract eligible participants. As such, SIB must balance its abilities to create incentive offerings with its budgetary capabilities. After considering requirements set by the Legislature and current regulations, the public needs additional information to learn about financial incentives which may be offered, which is why the proposed regulations require SIB to post information about its incentives on its internet website.

The need to repeal the current provision in subsection (a) is to remove language that is in conflict with state statute. Education Code Section 69996.3(f) describes the seed deposit amount required for newborn participants. Statute makes specific that newborns born before Fiscal Year 2022-2023 shall receive \$25 and newborns born in Fiscal Year 2023-2024 and thereafter are entitled to \$100. Therefore, additional clarification is not required in regulations.

The need to amend subsection(c) with new language is to prevent ambiguity based on conflicting statutory requirements. As stated above, the CalKIDS program is required to enroll each eligible student into the program based on the data provided by CDE each year, but SIB is to only apply an enhanced deposit to a student's account once. Based on budgetary capabilities and a review of the statute, SIB believes additional language is required to eliminate ambiguity and uphold compliance with Education Code Section 69996.9(a)(3).

Section 31014(a): The need to amend this subsection is to ensure the public has the most up-to-date information and instructions if they choose to opt-out from the program. SIB has created a new form to support this process. The updated version of this form is currently not incorporated into existing state law. Therefore, it is necessary to update this section of the regulations to reflect the updated form.

Section 31015, subsections (b) and (c): The need to amend subsection (b) is to ensure a student participant includes the correct county information during their registration process. The need to add subsection (c) is to create a process for participants to make changes to their CalKIDS account. After a review of current state law, not statutes or regulations account for situations where a CalKIDS participant or beneficiary needs to change or correct information to their CalKIDS account. This provision creates a voluntary opportunity for participants or beneficiaries to make necessary changes. Therefore, it is necessary to update program regulations to create this process.

Section 31016, subsections (c), (e) and (f): The need to amend subsection (c) is to ensure a student participant includes the necessary information for this process, which will aid in their ability to utilize funds for a qualified expense. If a student inserts the wrong identification number, the selected institution may not be able to identify the student.

Requiring participants to certify and authorize additional information is necessary to ensure participants can utilize their CalKIDS account funds. Due to data agreements with the CDE, SIB is not allowed to disclose participant information. However, the CDE has authorized SIB to disclose this information to institutions of higher education if the student provides consent. Including an additional requirement is necessary and reasonable to make sure the institution can work with SIB to properly identify the student.

Similarly, it is necessary and reasonable to require students to self-certify that they are actively enrolled at the institution. There have been multiple cases in the administration of the program where participants have requested to make a distribution request to an

institution, even though they are not currently enrolled there. As a result, the institution is forced to send the funds back to the CalKIDS program, which creates administrative burdens for both SIB and the institution. Adding additional language for the student to acknowledge is a necessary check to mitigate this problem.

Section 31016(g): It is necessary to add this subsection to give students a process to formally cancel a check they have requested be sent to an institution of higher education through the CalKIDS Program. SIB found multiple cases where students have chosen to not attend the institution of higher education, for which they send a program check to. As a result, the student asks how they can get the money back in their account to make another request. If the check sent has not been deposited by the original institution, SIB has the administrative capability to cancel the check. No current statute or regulations exist giving CalKIDS participants or beneficiaries a formal process to cancel the check. Adding additional language for this process is necessary to create such a process.

Section 31017(d): It is necessary to add this subsection to give participants and beneficiaries an opportunity to forfeit program funds from their CalKIDS account, but stay in the program. Existing state regulations in Section 31014 provide direction for how a participant may opt-out of the program completely. Additionally, existing state statute in Education Code Section 69996.3(j)(1) notes that all program funds will be relinquished from an individual's CalKIDS account after that individual reaches 26 years of age. Since the program launched in 2022, there have been cases where participants have informed SIB that they are not a homeless youth or in foster care, and therefore do not believe they are deserving of additional funds SIB is required to provide. However, because of their low-income status, they still wish to be part of the program. While current law provides an opportunity to leave the program completely through an opt-out process, or by aging out, it is necessary to create a structure and process for participants to remain in the program even if they choose to voluntarily relinquish funds.

## **BENEFITS**

Section 31010 (e): This subsection will benefit program administrators and the public by better clarifying the legal authority for financial incentives associated with participant engagement.

Section 31012 (a), (b), (c), (e), and (g): These subsections will provide important benefits to program participants not currently available by the CalKIDS Program. Demonstrating the relationship between CalKIDS and ScholarShare 529 will help clarify that they are separate accounts and will assist in helping participants consider further savings options by possibly opening a ScholarShare 529 account. By changing the current incentive structure to allow for more flexibility based on program budget, program participants will have more opportunities to engage with the program. For example, SIB can reward individuals for engaging in educational modules or participating in learning opportunities, beyond those currently listed in regulations. These sections also promote fairness to beneficiaries by allowing student participants to also earn incentives. The public will also benefit from a more transparent structure to see which financial

incentives are available as a result of the requirement to post information on the program's online website.

Section 31012 (c): This section will benefit future program participants by ensuring that a single individual does not receive more money in their CalKIDS account than they are legally entitled. This will provide a public benefit to ensure that the program can continue funding future accounts. This will also promote fairness and trust by ensuring the program meets its statutory obligations.

Section 31014(a): This subsection will benefit eligible participants by ensuring that they have the most up-to-date resource on how to opt-out of the program. Since the new form also requires contact information, it will benefit the participant in the event SIB needs to reach the individual.

Section 31015(b) and (c): These subsections will provide greater benefits to program beneficiaries by enabling them to register correctly and change personal information associated with their CalKIDS account. Establishing this additional subsection will create a formal process for SIB to record requests and see if changes are necessary to the individual's account. Currently, approximately 40 eligible participants have requested a change to their account. Creating a formal process will allow SIB to work with these individuals to address their individual cases.

Section 31016 (c), (e) and (f): These subsections will provide benefits to the institutions for which CalKIDS participants send program funds. It often requires time and resources for an institution to contact SIB to inform us that they are unable to identify the particular CalKIDS participant to apply funds for. By requiring the participant to list their correct identification number and mark these two additional sections on the disbursement form, it will ensure that the institution has all the information necessary to process a received CalKIDS check.

Section 31016(g): This subsection will benefit participants by enabling them to use their CalKIDS funds to the school of their choice. Education Code 69996.3(g) stipulates that SIB is to send program funds directly to the participant's selected institution of higher education. There are cases where a CalKIDS participant chooses to send funds to one institution, but then subsequently chooses to attend a different institution. As such, these program funds must be resent to the appropriate campus. SIB will not know if the student wishes to transfer funds to a different institution unless we are informed. Therefore, this process will grant SIB the authority to cancel an originally distributed check to make sure funds are returned to the participant's account for their desired usage.

Section 31017(d): This subsection will benefit future program participants by ensuring that funds remain available for future participants. If a participant wishes to relinquish funds in their account, this gives SIB the opportunity to allocate funds to a different participant.

## **STUDIES, REPORTS, OR DOCUMENTS RELIED UPON**



SIB relied on the policy memo cited below from the Washington University in St. Louis Center for Social Development to determine financial incentives as proposed in the regulations.

[Clancy, M. M., Sherraden, M., & Beverly, S. G.](#) (2019, December). *Essential policy design elements for statewide Child Development Accounts* (CSD Fact Sheet No. 19-47). St. Louis MO: Washington University, Center for Social Development.  
<https://doi.org/10.7936/1rvq-dy43>

SIB relied on CDPH's recommendation to use the EVVE system from NAPHSIS to verify legal changes to a person's individual information. See attached letter from CDPH.

### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY REASONS FOR REJECTING THOSE ALTERNATIVES**

Consideration of specified incentive amounts and a modified timeframe to apply incentives were rejected due to budgetary and marketing constraints. In the event SIB does not have the budgetary ability to apply the listed incentives, we will be locked into an unfunded mandate placed by the regulations.

SIB considered cancelling checks, allowing for forfeiture of funds, and changing beneficiary information through an ad-hoc process of accepting email requests. However, SIB determined that conducting these processes through informal email would cause situations where individuals include only partial information necessary to complete the requirements for these actions. An informal email process would also be a barrier to maintaining effective records of program requests. .

### **DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

SIB has not identified any adverse impacts on business nor have any adverse impacts been identified and brought to the attention of SIB. The only businesses in the State of California known to be directly impacted by the CalKIDS Program are the vendors SIB utilizes for the administration of the program. These include vendors in financial services, marketing, recordkeeping, translations, and printing and mailing. Since the program has launched, SIB has maintained direct communication with these individual stakeholders through frequent meetings and emails. SIB has not been informed by any of the proposed stakeholders that these activities would cause an adverse economic impact to their business. The regulations do not require businesses in the State of California to take any actions. Similarly, the proposed regulations do not prohibit businesses from performing duties, as they do not create new constraints or limitations to businesses. Therefore, it is unlikely that the proposed regulations could cause an adverse impact on businesses.

### **ECONOMIC IMPACT ASSESSMENT**

### *The Creation or Elimination of Jobs Within the State*

SIB does not believe that the proposed regulations will create or eliminate jobs within the State of California. The proposed regulations do not direct businesses to perform certain duties or limit their abilities to perform current operations. As such, there would be no requirement for businesses to increase or reduce their current resources.

### *The Creation of New Businesses or the Elimination of Existing Businesses Within the State*

SIB does not believe that the proposed regulations create new businesses or eliminate existing business within the state. The proposed regulations do not direct businesses to perform certain duties or limit their abilities to perform current operations. Additionally, there is not a requirement for the creation of a competitive market place to create or eliminate businesses.

### *The Expansion of Businesses Currently Doing Business Within the State*

SIB believes that the proposed regulations may have a limited impact on the expansion of businesses currently operating within the State.

If SIB were to implement incentive offerings, it could use educational modules currently offered by SIB's plan manager to engage participants. This would require staff time and resources to support the onboarding and implementation of the project. SIB's current plan manager, TIAA-CREF, Tuition Financing Inc. is paid through fees associated with the ScholarShare 529 college savings plan. As such, SIB would not be required to pay additional funds to utilize these modules for these intended purposes.

If SIB were to incorporate the various forms into the regulations, SIB would need to enlist the support of its translation service provider to translate the forms into multiple languages. The cost of translating materials is based on the number of words in each form. Each language will also have a different cost per word. The average cost per word is fourteen cents. Assuming each form is 1,000 words, the cost to translate a single form would be \$140.

### *The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment*

The proposed regulations do not impose requirements or prohibitions on California residents, the state's workforce, or on current environmental regulations. In the absence of such requirements or prohibitions, SIB does not believe that the adoption of these regulations will provide benefits or adverse impacts to these areas.

## **DESCRIPTION OF EFFORTS TO AVOID CONFLICT WITH AND DUPLICATION OF FEDERAL REGULATIONS**

SIB has not identified any conflict or duplication with any federal regulations.