

**ITEM 5**  
**MANDATE REDETERMINATION**  
**FIRST HEARING: ADEQUATE SHOWING**  
**PROPOSED DECISION**

Education Code Section 52056(c)  
Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1) and  
Statutes 2000, Chapter 695 (SB 1552)

*Academic Performance Index (01-TC-22)*

As Alleged to be Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Department of Finance, Requester

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**1. TITLE OF REQUEST TO ADOPT A NEW TEST CLAIM DECISION**

Academic Performance Index (01-TC-22)

**2. REQUESTER INFORMATION**

Name of Local Agency, School District, Statewide Association of Local Agencies or School Districts, or State Agency

Amber Alexander  
Requester Contact

Principal Program Budget Analyst  
Title

Department of Finance  
Organization

915 L Street, 7th Floor  
Street Address

Sacramento, CA, 95814  
City, State, Zip Code

916-445-0328  
Telephone Number

916-323-9530  
Fax Number

Amber.Alexander@dof.ca.gov  
E-Mail Address

**3. REPRESENTATIVE INFORMATION**

If requester designates another person to act as its sole representative for this request, all correspondence and communications regarding this request shall be forwarded to this representative. Any change in representation must be authorized by the requester in writing, and sent to the Commission on State Mandates. Please complete information below if designating a representative.

Representative Name

Title

Organization

Street Address

City, State, Zip Code

Telephone Number

Fax Number

E-Mail Address

For CSM Use Only	
Filing Date:	RECEIVED
	March 8, 2019
	Commission on State Mandates
REQUEST#	18-MR-01

**4. IDENTIFYING INFORMATION**

Please identify the name(s) of the programs, test claim number(s), and the date of adoption of the Statement of Decision, for which you are requesting a new test claim decision, and the subsequent change in law that allegedly changes the state's liability. Regarding the subsequent change in law, please identify all relevant code sections (include statutes, chapters, and bill numbers), regulations (include register number and effective date), executive orders (include effective date), cases, or ballot measures.

On July 31, 2009, the Commission on State Mandates (Commission) adopted the Statement of Decision for the Academic Performance Index (01-TC-22) state-mandated program and approved reimbursement for specified mandated activities. Pursuant to Government Code Section 17570, the Department of Finance requests that the Commission adopt a new test claim decision and amend the parameters and guidelines for the Academic Performance Index state-mandated program to reflect the elimination of Article 4 of Chapter 6.1 of Title 2 of the Education Code, pursuant to Chapter 47 of the Statutes of 2013, which eliminated the requirement for school district governing boards to discuss their annual ranking following the release of the Academic Performance Index results.

Sections 5, 6 and 7 are attached as follows:

5. Detailed Analysis: Pages 5 to 5.

6. Declarations: Pages 6 to 7.

7. Documentation: Pages 8 to 8.

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the name of the request, requestor, section number (i.e., 5, 6, or 7), and a heading at the top of each page.

## 5. DETAILED ANALYSIS

Under the heading "5. Detailed Analysis," please provide a detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to article XIII B, section 6(a) of the California Constitution based on a "subsequent change in law" as defined in Government Code section 17570. This analysis shall be more than a written narrative or simple statement of the facts at law. It requires the application of the law (Gov. Code, § 17570 (a) and (b)) to the facts (i.e., the alleged subsequent change in law) discussing, for each activity addressed in the prior test claim decision, how and why the state's liability for that activity has been modified. Specific references shall be made to chapters, articles, sections, or page numbers that are alleged to impose or not impose a reimbursable state-mandated program.

Also include all of the following elements:

The actual or estimated amount of the annual statewide changes in the state's liability for mandate reimbursement pursuant to Article XIII B, section 6 (subdivision (a)) on a subsequent change in the law.

- A. Identification of all of the following if relevant:
1. Dedicated state funds appropriated for the program.
  2. Dedicated federal funds appropriated for the program.
  3. Fee authority to offset the costs of the program.
  4. Federal law.
  5. Court decisions.
  6. State or local ballot measures and corresponding date of election.

## 6. DECLARATIONS

Under the heading "6. Declarations," support the detailed analysis with declarations that:

- A. Declare actual or estimated annual statewide costs that will or will not be incurred to implement the alleged mandate.
- B. Identify all local, state, or federal funds and fee authority that may or may not be used to offset the increased costs that will or will not be incurred by the claimants to implement the alleged mandate or result in a finding of no costs mandated by the state, pursuant to Government Code section 17556.
- C. Describe new activities performed to implement specified provisions of the statute or executive order alleged to impose a reimbursable state-mandated program.
- D. Make specific references to chapters, articles, sections, or page numbers alleged to impose or not impose a reimbursable state-mandated program.
- E. Are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

## 7. DOCUMENTATION

Under heading "7. Documentation," support the detailed analysis with copies of all of the following:

- A. Statutes, and administrative or court decisions cited in the detailed analysis.

Statements of Decision and published court decisions from a state mandate determination by the Board of Control or the Commission are exempt from this requirement. When an omnibus bill is pled or cited, the requester shall file only the relevant pages of the statute, including the Legislative Counsel's Digest and the specific statutory changes at issue.

## 8. CERTIFICATION

Read, sign, and date this section and insert at the end of the request for a new test claim decision.\*

This request for a new test claim decision is true and complete to the best of my personal knowledge, information, or belief.

**Amber Alexander**

Print or Type Name of Authorized Official

**Principal Program Budget Analyst**

Print or Type Title

*Amber Alexander*

Signature of Authorized Official

*4-2-19*

Date

\*If declarant for this certification is different from the contact identified in section 2 of the form, please provide the declarant's address, telephone number, fax number and e-mail address.

**Request to Adopt a New Test Claim Decision**  
**Department of Finance**  
**Academic Performance Index**  
**Section 5: Detailed Analysis**

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Summary of Mandate

The Academic Performance Index (API) was established pursuant to Chapter 3, Statutes of 1999, to develop a measure of school performance that could compare improvements in different pupil subgroups within schools.

The Commission on State Mandates (Commission) found, in the test claim statement of decision for the Academic Performance Index (01-TC-22) that Education Code Section 52056 imposed a reimbursable state-mandated program on school districts within the meaning of Article XIII B, section 6 of the California Constitution and Government Code section 17514.

Chapter 47, Statutes of 2013, repealed the requirement that school district governing boards must discuss their annual ranking following the annual publication of the API school rankings.

Pursuant to subdivision (c) of Government Code section 17570, the Department of Finance requests the Commission adopt a new test claim decision and amend the parameters and guidelines for the Academic Performance Index (01-TC-22) mandated program to reflect the subsequent changes in law pursuant to Chapter 47, Statutes of 2013, repealed the required discussion of the API rankings. Given the repeal of the authorizing statute, any required activities pursuant to the California Code of Regulations related to the API are unsupported by statute and should no longer be a basis for mandated activities.

As a result of the change in law, the following activities are no longer reimbursable:

- Requiring a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API school rankings.

**Request to Adopt a New Test Claim Decision**  
**Department of Finance**  
**Academic Performance Index**  
**Section 6: Declarations**

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According to the State Controller's Office April 30, 2018, "State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)," school districts claimed \$1,203 in 2016-17, \$1,090 in 2015-16, and \$1,182 in 2014-15 for activities related to the Academic Performance Index.

The forgoing analysis provides substantiation that the reimbursable activities identified in the Academic Performance Index Statement of Decision (01-TC-22) cease to be eligible for reimbursements effective July 1, 2018. Therefore, based on the change in law, the state's liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution should be zero.

**Request to Adopt a New Test Claim Decision**  
**Department of Finance**  
**Academic Performance Index**  
**Section 6: Declarations**

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DECLARATION OF AMBER ALEXANDER  
DEPARTMENT OF FINANCE

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

4-2-19

at Sacramento, CA

*Amber Alexander*

Amber Alexander

**Request to Adopt a New Test Claim Decision  
Department of Finance  
Academic Performance Index  
Section 7: Documentation**

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# **ATTACHMENT**

**A**


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**AB-97 School finance.** (2013-2014)

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**Assembly Bill No. 97**

CHAPTER 47

An act to amend Sections 1622, 14002, 14501, 17582, 33127, 35035, 35735.1, 37700, 37710.3, 37710.5, 41020, 41303, 41544, 42127, 42238.15, 42280, 42281, 42282, 42283, 42284, 42285, 42285.5, 42286, 42287, 42289, 42289.1, 42289.2, 42289.3, 42289.4, 42289.5, 42800, 46200, 46201, 46201.2, 46202, 47604.32, 47604.33, 47604.5, 47605, 47605.6, 47613, 47631, 47632, 47635, 47636, 47660, 47663, 48310, 48359.5, 49085, 49536, 52052, 52052.1, 52052.5, 52055.750, 56365, 56366.1, 56836.21, and 56836.24 of, to amend and repeal Sections 42238, 42238.1, 42238.2, and 42238.5 of, to add Sections 35736.5, 42238.01, 42238.02, 42238.025, 42238.03, 42238.04, 42238.05, 42238.051, 42238.052, 42238.053, 42238.06, 42238.07, 46207, 46208, 47606.5, and 47607.3 to, to add Article 4.5 (commencing with Section 52060) to Chapter 6.1 of Part 28 of Division 4 of Title 2 of, to add Chapter 12.5 (commencing with Section 2574) to Part 2 of Division 1 of Title 1 of, to repeal Sections 14002.3, 17583, 17584, 17584.1, 17584.2, 17585, 17587, 35735.2, 42282.1, 42283.1, 42283.2, 42285.1, 42285.4, 42605, 42606, 46201.3, 46204, 47612.7, 47632.5, 47664, 52051, and 52052.2 of, and to repeal Article 3 (commencing with Section 52053), Article 3.5 (commencing with Section 52055.600), and Article 4 (commencing with **Section 52056**) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of, the Education Code, to amend Sections 7906 and 50286 of the Government Code, to amend Sections 33492.78, 33607.5, and 33684 of the Health and Safety Code, and to amend Sections 95 and 196.4 of the Revenue and Taxation Code, relating to school finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor July 01, 2013. Filed with Secretary of State July 01, 2013. ]

LEGISLATIVE COUNSEL'S DIGEST

AB 97, Committee on Budget. School finance.

(1) Existing law establishes the public school system in this state, and, among other things, provides for the establishment of county superintendents of schools, school districts, and charter schools throughout the state. Existing law provides for the provision of instruction at the public elementary and secondary schools maintained by these local educational agencies. Existing law establishes a public school financing system that requires funding for county superintendents of schools and school districts to be calculated pursuant to a revenue limit, as specified, and requires funding for charter schools to be calculated pursuant to a general-purpose entitlement, except as provided, and requires the revenue limit and general-purpose entitlement to be composed of, among other things, state aid and certain local revenues. Existing law also establishes various categorical education programs under which funding is provided for specific educational purposes, including, among many other programs, programs for home-to-school transportation, adult education, teacher training, and class size reduction.

This bill would revise and recast the provisions related to the public financing system by requiring state funding for county superintendents of schools and school districts, and charter schools that previously received a general-purpose entitlement, to be calculated pursuant to a local control funding formula, as specified. The bill would authorize local educational agencies to expend, for any local educational purpose, the funds previously required to be spent for specified categorical education programs, including, among others, programs for teacher training and class size reduction.

This bill would also change the funding calculations for necessary small schools and make other changes related to shifting financial responsibilities and school accountability, and would make other changes to the law relating to elementary and secondary education.

(2) Existing law requires a county board of education, a governing board of a school district, and a governing body of a charter school, to annually adopt a budget, as specified.

This bill would require a county board of education and a governing board of a school district to annually adopt or revise a local control and accountability plan that aligns with the annual budget and contains certain elements and that, among other things, was developed in consultation with teachers, principals, administrators, other school personnel, parents, and pupils. The bill would require a charter for a charter school to include many of the local control and accountability plan elements and would require the charter school to annually update its plan related to those elements. By requiring county boards of education and school districts to annually adopt or revise a local control and accountability plan and provide additional services, the bill would impose a state-mandated local program.

(3) This bill would appropriate \$2,099,161,000 with \$2,000,000 being apportioned to the Governor's Office of Planning and Research for purposes of developing regulations, templates, and evaluation rubrics, as specified, and the remaining funds being apportioned to the Superintendent of Public Instruction for purposes of allocating those funds to county superintendents of schools, school districts, and charter schools pursuant to the local control funding formula.

(4) This bill would make conforming changes, correct cross-references, and make other nonsubstantive changes.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) Funds appropriated by this bill would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

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

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 1622 of the Education Code is amended to read:

**1622.** (a) On or before July 1 of each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall file the budget with the Superintendent, the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing required under Section 1620. For the 2014–15 fiscal year and each fiscal year thereafter, the county board of education shall not adopt a budget before the county board of education adopts a local control and accountability plan or approves an update to an existing local control and accountability plan if an existing local control and accountability plan or update to a local control and accountability plan is not effective during the budget year. The county board of education shall not adopt a budget that does not include the expenditures identified in the local control and accountability plan and any annual update to the local control and accountability plan that will be effective in the subsequent fiscal year.

(b) (1) The Superintendent shall examine the budget to determine if it (A) complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency

budgets, (B) allows the county office of education to meet its financial obligations during the fiscal year, and (C) is consistent with a financial plan that will enable the county office of education to satisfy its multiyear financial commitments. In addition, the Superintendent shall identify any technical corrections to the budget that must be made. On or before August 15, the Superintendent shall approve or disapprove the budget and, in the event of a disapproval, transmit to the county office of education in writing his or her recommendations regarding revision of the budget and the reasons for those recommendations.

(2) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the Superintendent, as a condition on approval of a county office of education budget, shall not require a county office of education to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the county superintendent to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

(3) For the 2014–15 fiscal year and each fiscal year thereafter, the Superintendent shall disapprove a budget if any of the following occur:

(A) The Superintendent has not approved a local control and accountability plan or an annual update to the local control and accountability plan filed by a county superintendent of schools pursuant to Section 52067.

(B) The Superintendent determines that the budget does not include the expenditures necessary to implement the local control and accountability plan or an annual update to the local control and accountability plan that is effective for that budget year.

(c) On or before September 8, the county board of education shall revise the county office of education budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the Superintendent, shall adopt the revised budget, and shall file the revised budget with the Superintendent, the county board of supervisors, and the county auditor. Before revising the budget, the county board of education shall hold a public hearing regarding the proposed revisions, which shall be made available for public inspection not less than three working days before the hearing. The agenda for that hearing shall be posted at least 72 hours before the public hearing and shall include the location where the budget will be available for public inspection. The revised budget, and supporting data, shall be maintained and made available for public review.

(d) The Superintendent shall examine the revised budget to determine if it complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets and, no later than October 8, shall approve or disapprove the revised budget. For the 2014–15 fiscal year and each fiscal year thereafter, the Superintendent shall disapprove a revised budget if the Superintendent determines that the revised budget does not include the expenditures necessary to implement the local control and accountability or an annual update to the local control and accountability plan approved by the Superintendent pursuant to Section 52067. If the Superintendent disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the Superintendent, as a condition on approval of a county office of education budget, shall not require a county office of education to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the county superintendent to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

(e) Notwithstanding any other provision of this section, the budget review for a county office of education shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (c) and (d), if the county board of education so elects, and notifies the Superintendent in writing of that decision, no later than October 31 of the immediately preceding calendar year.

(1) In the event of the disapproval of the budget of a county office of education pursuant to subdivision (b), on or before September 8, the county superintendent of schools and the county board of education shall review the recommendations of the Superintendent at a regularly scheduled meeting of the county board of education and respond to those recommendations. That response shall include the proposed actions to be taken, if any, as a result of those recommendations.

(2) No later than October 8, after receiving the response required under paragraph (1), the Superintendent shall review that response and either approve or disapprove the budget of the county office of education. For the 2014–15 fiscal year and each fiscal year thereafter, the Superintendent shall disapprove a budget if the

Superintendent determines that the budget adopted by the county board of education does not include the expenditures necessary to implement the local control and accountability plan or an annual update to the local control and accountability plan approved by the Superintendent pursuant to Section 52067. If the Superintendent disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(3) Not later than 45 days after the Governor signs the annual Budget Act, the county office of education shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

**SEC. 2.** Chapter 12.5 (commencing with Section 2574) is added to Part 2 of Division 1 of Title 1 of the Education Code, to read:

**CHAPTER 12.5. County Local Control Funding Formula**

**2574.** For the 2013–14 fiscal year and for each fiscal year thereafter, the Superintendent annually shall calculate a county local control funding formula for each county superintendent of schools as follows:

(a) Compute a county office of education operations grant equal to the sum of each of the following amounts:

(1) Six hundred fifty-five thousand nine hundred twenty dollars (\$655,920).

(2) One hundred nine thousand three hundred twenty dollars (\$109,320) multiplied by the number of school districts for which the county superintendent of schools has jurisdiction pursuant to Section 1253.

(3) (A) Seventy dollars (\$70) multiplied by the number of units of countywide average daily attendance, up to a maximum of 30,000 units. For purposes of this section, countywide average daily attendance means the aggregate number of annual units of average daily attendance within the county attributable to all school districts for which the county superintendent of schools has jurisdiction pursuant to Section 1253, charter schools physically located within the county, and the schools operated by the county superintendent of schools.

(B) Sixty dollars (\$60) multiplied by the number of units of countywide average daily attendance for the portion of countywide average daily attendance, if any, above 30,000 units, up to a maximum of 60,000 units.

(C) Fifty dollars (\$50) multiplied by the number of units of countywide average daily attendance for the portion of countywide average daily attendance, if any, above 60,000, up to a maximum of 140,000 units.

(D) Forty dollars (\$40) multiplied by the number of units of countywide average daily attendance for the portion of countywide average daily attendance, if any, above 140,000 units.

(4) For the 2014–15 fiscal year and each fiscal year thereafter, adjust each of the amounts provided in the prior year pursuant to paragraphs (1), (2), and (3) by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(b) Determine the enrollment percentage of unduplicated pupils pursuant to the following:

(1) (A) For the 2013–14 fiscal year, divide the enrollment of unduplicated pupils in all schools operated by a county superintendent of schools in the 2013–14 fiscal year by the total enrollment in those schools in the 2013–14 fiscal year.

(B) For the 2014–15 fiscal year, divide the sum of the enrollment of unduplicated pupils in all schools operated by a county superintendent of schools in the 2013–14 and 2014–15 fiscal years by the sum of the total enrollment in those schools in the 2013–14 and 2014–15 fiscal years.

(C) For the 2015–16 fiscal year and each fiscal year thereafter, divide the sum of the enrollment of unduplicated pupils in all schools operated by a county superintendent of schools in the current fiscal year and the two prior fiscal years by the sum of the total enrollment in those schools in the current fiscal year and the two prior fiscal years.

(D) For purposes of determining the enrollment percentage of unduplicated pupils pursuant to this subdivision, enrollment in schools or classes established pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 of Division 4 of Title 2 and the enrollment of pupils other than the pupils identified in clauses (i) to (iii), inclusive, of subparagraph (A) of paragraph (4) of subdivision (c), shall be excluded from the calculation of the enrollment percentage of unduplicated pupils.

(2) For purposes of this section, an "unduplicated pupil" is a pupil who is classified as an English learner, eligible to receive a free or reduced-price meal, or a foster youth. For purposes of this section, the definitions in Section 42238.01 of an English learner, a pupil eligible to receive a free or reduced-price meal, and foster youth shall apply. A pupil shall be counted only once for purposes of this section if any of the following apply:

(A) The pupil is classified as an English learner and is eligible for a free or reduced-price meal.

(B) The pupil is classified as an English learner and is a foster youth.

(C) The pupil is eligible for a free or reduced-price meal and is classified as a foster youth.

(D) The pupil is classified as an English learner, is eligible for a free or reduced-price meal, and is a foster youth.

(3) (A) Commencing with the 2013–14 fiscal year, a county superintendent of schools annually shall report the enrollment of unduplicated pupils, pupils classified as English learners, pupils eligible for free and reduced-price meals, and foster youth in schools operated by the county superintendent of schools to the Superintendent using the California Longitudinal Pupil Achievement Data System.

(B) The Superintendent shall make the calculations pursuant to this section using the data submitted through the California Longitudinal Pupil Achievement Data System.

(C) The Controller shall include instructions, as appropriate, in the audit guide required by subdivision (a) of Section 14502.1 for determining if the data reported by a county superintendent of schools using the California Longitudinal Pupil Achievement Data System is consistent with pupil data records maintained by the county office of education.

(c) Compute an alternative education grant equal to the sum of the following:

(1) (A) For the 2013–14 fiscal year, a base grant equal to the 2012–13 per pupil undeficitated statewide average juvenile court school base revenue limit calculated pursuant to Article 3 (commencing with Section 2550), as that article read on January 1, 2013.

(B) Commencing with the 2013–14 fiscal year, the per pupil base grant shall be adjusted by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(2) A supplemental grant equal to 35 percent of the base grant described in paragraph (1) multiplied by the enrollment percentage calculated in subdivision (b). The supplemental grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(3) (A) A concentration grant equal to 35 percent of the base grant described in paragraph (1) multiplied by the greater of either of the following:

(i) The enrollment percentage calculated in subdivision (b) less 50 percent.

(ii) Zero.

(B) The concentration grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(4) (A) Multiply the sum of paragraphs (1), (2), and (3) by the total number of units of average daily attendance for pupils attending schools operated by a county office of education, excluding units of average daily attendance for pupils attending schools or classes established pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 of Division 4 of Title 2, who are any of the following:

(i) Probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code.

(ii) On probation or parole and not in attendance in a school.

(iii) Expelled for any of the reasons specified in subdivision (a) or (c) of Section 48915.

(B) Multiply the number of units of average daily attendance for pupils attending schools or classes established pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 of Division 4 of Title 2 by the sum of the base grant calculated in paragraph (1), a supplemental grant equal to 35 percent of the base grant pursuant to paragraph (1), and a concentration grant equal to 17.5 percent of the base grant pursuant to paragraph (1). Funds provided for the supplemental and concentration grants pursuant to this calculation shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(C) Add the amounts calculated in subparagraphs (A) and (B).

(d) Add the amount calculated in subdivision (a) to the amount calculated in subparagraph (C) of paragraph (4) of subdivision (c).

(e) Add all of the following to the amount calculated in subdivision (d):

(1) The amount of funding a county superintendent of schools received for the 2012–13 fiscal year from funds allocated pursuant to the Targeted Instructional Improvement Block Grant program, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2 of Part 24 of Division 3 of Title 2, as that article read on January 1, 2013.

(2) (A) The amount of funding a county superintendent of schools received for the 2012–13 fiscal year from funds allocated pursuant to the Home to School Transportation program, as set forth in Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 of Division 3 of Title 2, and Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of Division 3 of Title 2, as those articles read on January 1, 2013.

(B) On or before March 1, 2014, the Legislative Analyst's Office shall submit recommendations to the fiscal committees of both houses of the Legislature regarding revisions to the methods of funding pupil transportation that address historical funding inequities across county offices of education and school districts and improve incentives for local educational agencies to provide efficient and effective pupil transportation services.

(f) The funds apportioned pursuant to this section and Section 2575 shall be available to implement the activities required pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

**2575.** (a) Commencing with the 2013–14 budget year and for each fiscal year thereafter, the Superintendent shall calculate a base entitlement for the transition to the county local control funding formula for each county office of education based on the sum of the amounts computed pursuant to paragraphs (1) to (3), inclusive:

(1) Revenue limits in the 2012–13 fiscal year pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that article read on January 1, 2013, adjusted only for changes in average daily attendance claimed by the county superintendent of schools for pupils identified in clauses (i), (ii), and (iii) of subparagraph (A) of paragraph (4) of subdivision (c) of Section 2574 and for pupils attending juvenile court schools. All other average daily attendance claimed by the county superintendent of schools and any other average daily attendance used for purposes of calculating revenue limits pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that article read on January 1, 2013, shall be considered final for purposes of this section as of the annual apportionment for the 2012–13 fiscal year, as calculated for purposes of the certification required on or before February 20, 2014, pursuant to Section 41332.

(2) The sum of both of the following:

(A) The amount of funding received from appropriations contained in Section 2.00 of the Budget Act of 2012, as adjusted by Section 12.42, in the following items: 6110-104-0001, 6110-105-0001, 6110-107-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-234-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001, 6110-267-0001, 6110-268-0001, and 6360-101-0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division

4 of Title 2, as it read on January 1, 2013, and 2012–13 fiscal year funding for pupils enrolled in community day schools who are mandatorily expelled pursuant to subdivision (c) of Section 48915.

(B) The amount of local revenues used to support a regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301.

(3) For the 2014–15 fiscal year and for each fiscal year thereafter, the sum of the amounts apportioned to the county office of education pursuant to subdivision (f) in all prior years.

(b) The Superintendent shall annually compute a county local control funding formula transition adjustment for each county superintendent of schools as follows:

(1) Subtract the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (e) of Section 2574. A difference of less than zero shall be deemed to be zero.

(2) Divide the difference for each county superintendent of schools calculated pursuant to paragraph (1) by the total sum of the differences for all county superintendents of schools calculated pursuant to paragraph (1).

(3) Multiply the proportion calculated for each county office of education pursuant to paragraph (2) by the amount of funding specifically appropriated for purposes of subdivision (f). The amount calculated shall not exceed the difference for the county superintendent of schools calculated pursuant to paragraph (1).

(c) The Superintendent shall subtract from the amount calculated pursuant to subdivision (a) the sum of each of the following:

(1) Local property tax revenues received pursuant to Section 2573 in the then current fiscal year.

(2) Any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 51 of the Statutes of 1979.

(3) The amount received pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 33607.5 of the Health and Safety Code that is considered property taxes pursuant to that section.

(4) The amount, if any, received pursuant to Sections 34177, 34179.5, 34179.6, and 34188 of the Health and Safety Code.

(5) The amount, if any, received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(d) The Superintendent shall subtract from the amount computed pursuant to subdivision (e) of Section 2574 the sum of the amounts computed pursuant to paragraphs (1) to (5), inclusive, of subdivision (c).

(e) The Superintendent shall annually apportion to each county superintendent of schools the amount calculated pursuant to subdivision (c) unless the amount computed pursuant to subdivision (c) is negative. If the amount computed is negative, except as provided in subdivision (f), an amount of property tax of the county superintendent of schools equal to the negative amount shall be deemed restricted and not available for expenditure during the fiscal year. In the following fiscal year, that amount, excluding any amount of funds used for purposes of subdivision (f), shall be considered restricted local property tax revenue for purposes of subdivision (a) of Section 2578. State aid shall not be apportioned to the county superintendent of schools pursuant to this subdivision if the amount computed pursuant to subdivision (c) is negative.

(f) (1) The Superintendent shall apportion, from an appropriation specifically made for this purpose, the amount computed pursuant to subdivision (b), or, if the amount computed pursuant to subdivision (c) is negative, the sum of the amounts computed pursuant to subdivisions (b) and (c) if the sum is greater than zero.

(2) The Superintendent shall apportion any portion of the appropriation made for purposes of paragraph (1) that is not apportioned pursuant to paragraph (1) pursuant to the following calculation:

(A) Add the amount calculated pursuant to subdivision (b) to the amount computed pursuant to subdivision (a) for a county superintendent of schools.

(B) Subtract the amount computed pursuant to subparagraph (A) from the amount computed pursuant to subdivision (e) of Section 2574 for the county superintendent of schools.



(C) Divide the difference for the county superintendent of schools computed pursuant to subparagraph (B) by the sum of the differences for all county superintendents of schools computed pursuant to subparagraph (B).

(D) Multiply the proportion computed pursuant to subparagraph (B) by the unapportioned balance in the appropriation.

(E) Apportion to each county superintendent of schools the amount calculated pursuant to subparagraph (D), or if subdivision (c) is negative, apportion the sums of subdivisions (b) and (c) and subparagraph (D) if the sum is greater than zero.

(F) The Superintendent shall repeat the computation made pursuant to this paragraph, accounting for any additional amounts apportioned after each computation, until the appropriation made for purposes of paragraph (1) is fully apportioned.

(G) The total amount apportioned pursuant to this subdivision to a county superintendent of schools shall not exceed the difference for the county superintendent of schools calculated pursuant to paragraph (1) of subdivision (b).

(g) (1) For a county superintendent of schools for whom, in the 2013–14 fiscal year, the amount computed pursuant to subdivision (c) is less than the amount computed pursuant to subdivision (d), in the first fiscal year following the fiscal year in which the sum of the apportionments pursuant to subdivisions (e) and (f) is equal to the amount calculated pursuant to subdivision (d) of this section, the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(2) For a county superintendent of schools for whom, in the 2013–14 fiscal year, the amount computed pursuant to subdivision (c) is greater than the amount computed pursuant to subdivision (d), in the first fiscal year in which the amount computed pursuant to subdivision (c) would be less than the amount computed pursuant to subdivision (d), the Superintendent shall apportion to the county superintendent of schools the amount computed in subdivision (d) in that fiscal year and each fiscal year thereafter instead of the amounts computed pursuant to subdivisions (e) and (f).

(3) In each fiscal year, the Superintendent shall determine the percentage of county superintendents of schools that are apportioned funding that is less than the amount computed pursuant to subdivision (d), as of the second principal apportionment of the fiscal year. If the percentage is less than 10 percent, the Superintendent shall apportion to those county superintendents of schools funding equal to the amount computed in subdivision (d) in that fiscal year and for each fiscal year thereafter instead of the amounts calculated pursuant to subdivisions (e) and (f).

(4) Commencing with the first fiscal year after the apportionments in paragraph (3) are made, the adjustments in paragraph (4) of subdivision (a) of Section 2574 and subparagraph (B) of paragraph (1) of subdivision (c) of Section 2574 shall be made only if an appropriation for those purposes is included in the annual Budget Act.

(5) If the calculation pursuant to subdivision (d) is negative and the Superintendent apportions to a county superintendent of schools the amount computed pursuant to subdivision (d) pursuant to paragraph (1), (2), or (3), an amount of property tax of the county superintendent of schools equal to the negative amount shall be deemed restricted and not available for expenditure during that fiscal year. In the following fiscal year the restricted amount shall be considered restricted local property tax revenue for purposes of subdivision (a) of Section 2578.

(h) Commencing with the 2013–14 fiscal year, the Superintendent shall apportion to a county superintendent of schools an amount of state aid, including any amount apportioned pursuant to subdivisions (f) and (g), that is no less than the amount calculated in subparagraph (A) of paragraph (2) of subdivision (a).

(i) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to pupils enrolled in grades 9 to 12, inclusive, shall not redirect that funding for another purpose unless otherwise authorized in law or pursuant to an agreement between the regional occupational center or program joint powers agency and the contracting county superintendent of schools.

(j) For the 2013–14 and 2014–15 fiscal years only, a county superintendent of schools who, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2) of subdivision (a), received funds on behalf of, or provided funds to, a home-to-school transportation joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing pupil transportation shall not redirect that funding for another purpose unless otherwise authorized in law or pursuant to an agreement between the home-to-school transportation joint powers agency and the contracting county superintendent of schools.

(k) (1) In addition to subdivision (j), of the funds a county superintendent of schools receives for home-to-school transportation programs pursuant to Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5 of Division 3 of Title 2, and Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of Division 3 of Title 2, the county superintendent of schools shall expend no less for those program than the amount of funds the county superintendent of schools expended for home-to-school transportation in the 2012–13 fiscal year.

(2) For the 2013–14 and 2014–15 fiscal years only, of the funds a county superintendent of schools receives for purposes of regional occupational centers or programs, or adult education, the county superintendent of schools shall expend no less for each of those programs than the amount of funds the county superintendent of schools expended for purposes of regional occupational centers or programs, or adult education, respectively, in the 2012–13 fiscal year.

**2576.** (a) If a county superintendent of schools enrolls in a school operated by the county superintendent of schools a pupil not funded pursuant to clause (i), (ii), or (iii) of subparagraph (A) of paragraph (4) of subdivision (c) of Section 2574, any attendance generated by that pupil shall be credited to the school district of residence. Enrollment of these pupils shall be transferred to the school district of residence for purposes of calculating the percentage of unduplicated pupils pursuant to Section 42238.02.

(b) For purposes of this section, the school district of residence for a homeless child, as defined in Section 1981.2, enrolled in a school operated by a county superintendent of schools shall be deemed to be the school district that last provided educational services to that child or, if it is not possible to determine that school district, the largest school district in the county.

**2577.** Notwithstanding any other law, revenue limit funding for county superintendents of schools for the 2012–13 fiscal year and prior fiscal years shall continue to be adjusted pursuant to Article 3 (commencing with Section 2550) of Chapter 12, as that section read on January 1, 2013.

**2578.** (a) Every fiscal year the Superintendent shall determine the amount of funds that will be restricted for each county superintendent of schools pursuant to subdivisions (e) and (g) of Section 2575, as of June 30 of the prior fiscal year.

(b) The auditor-controller of each county shall distribute the amounts determined in subdivision (a) to the Supplemental Revenue Augmentation Fund created within the county pursuant to Section 100.06 of the Revenue and Taxation Code. The amount of funds required to be transferred by this subdivision shall be transferred annually in two equal shares with the first share transferred on or before January 15 of each year and the second share transferred after January 15 and on or before May 1 of each year.

(c) The funds transferred to the Supplemental Revenue Augmentation Fund for purposes of this section shall be transferred by the county office of education to the auditor-controller of the county and shall be exclusively used to offset state costs of providing trial court services and costs, until the funds are exhausted.

**2579.** Commencing on July 1, 2013, all of the following shall apply:

(a) All references to Section 2558 shall instead refer to Section 2575.

(b) Unless the context otherwise requires, all references to the revenue limit of a county office of education or county superintendent of schools shall instead refer to the county local control funding formula.

**SEC. 3.** Section 14002 of the Education Code is amended to read:

**14002.** Notwithstanding any other law, upon certification of the Superintendent, the Controller shall transfer from the General Fund to Section A of the State School Fund during each fiscal year the amount of moneys required to meet the amounts apportioned pursuant to subdivisions (e) and (g) of Section 2575, and Sections 2577, 42238.02, as implemented by Section 42238.03, and 42238.04 for each fiscal year. If all school districts and

charter schools are funded pursuant to the provisions of Section 42238.02 and all county superintendents of schools are funded at or above the calculation made pursuant to subdivision (d) of Section 2575, appropriations for local control funding formula cost-of-living adjustments pursuant to Section 2574 and paragraph (2) of subdivision (d) of Section 42238.02 shall be subject to an appropriation in the annual Budget Act.

**SEC. 4.** Section 14002.3 of the Education Code is repealed.

**SEC. 5.** Section 14501 of the Education Code is amended to read:

**14501.** (a) As used in this chapter, "financial and compliance audit" shall be consistent with the definition provided in the "Standards for Audits of Governmental Organizations, Programs, Activities, and Functions" promulgated by the Comptroller General of the United States. Financial and compliance audits conducted under this chapter shall fulfill federal single audit requirements.

(b) As used in this chapter, "compliance audit" means an audit that ascertains and verifies whether or not funds provided through apportionment, contract, or grant, either federal or state, have been properly disbursed and expended as required by law or regulation or both and includes the verification of each of the following:

(1) Expenditure of funds in accordance with the local control and accountability plan adopted pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

(2) The reporting requirements for the sufficiency of textbooks or instructional materials, or both, as defined in Section 60119.

(3) Teacher misassignments pursuant to Section 44258.9.

(4) The accuracy of information reported on the School Accountability Report Card required by Section 33126. The requirements set forth in paragraphs (2) and (3) and this paragraph shall be added to the audit guide requirements pursuant to subdivision (b) of Section 14502.1.

**SEC. 6.** Section 17582 of the Education Code is amended to read:

**17582.** (a) The governing board of a school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purposes of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials, the control, management, and removal of lead-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received from any source and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section. The term "school building" as used in this article includes a facility that a county office of education is authorized to use pursuant to Article 3 (commencing with Section 17280) of Chapter 3.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund.

**SEC. 7.** Section 17583 of the Education Code is repealed.

**SEC. 8.** Section 17584 of the Education Code is repealed.

**SEC. 9.** Section 17584.1 of the Education Code, as amended by Section 18 of Chapter 7 of the Statutes of 2011, is repealed.

**SEC. 10.** Section 17584.1 of the Education Code, as amended by Section 19 of Chapter 7 of the Statutes of 2011, is repealed.

**SEC. 11.** Section 17584.2 of the Education Code is repealed.

**SEC. 12.** Section 17585 of the Education Code is repealed.

**SEC. 13.** Section 17587 of the Education Code is repealed.

**SEC. 14.** Section 33127 of the Education Code is amended to read:

**33127.** (a) The Superintendent, the Controller, and the Director of Finance shall develop, on or before March 1, 1989, standards and criteria to be reviewed and adopted by the state board, and to be used by local educational agencies in the development of annual budgets and the management of subsequent expenditures from that budget. During the development of the standards and criteria, the Superintendent shall convene a committee composed of representatives from school districts, county offices of education, state agencies, the Legislature, and appropriate labor and professional organizations. The committee may review and comment on the proposal standards and criteria before their adoption. In addition, the standards and criteria shall be used to monitor the fiscal stability of local educational agencies as provided for in Sections 1240.1, 1240.2, 1621, 1623, 33131, 42127, and 42127.1.

(b) The Superintendent, the Controller, and the Director of Finance shall update the standards and criteria developed pursuant to subdivision (a) on or before September 1, 2005. The updated standards and criteria shall be reviewed and adopted pursuant to the procedure established by subdivision (a) and are applicable to local educational agency budgets commencing with the 2006–07 fiscal year and each fiscal year thereafter.

(c) The Superintendent, the Controller, and the Director of Finance shall update the standards and criteria developed pursuant to subdivision (a) on or before January 1, 2014, to address the requirements of Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28. The updated standards and criteria shall be reviewed and adopted pursuant to the procedure established by subdivision (a) and are applicable to local educational agency budgets commencing with the 2014–15 fiscal year and each fiscal year thereafter.

(d) After January 1, 2014, to the extent necessary, any revisions or updates to the standards and criteria shall be developed by the Superintendent, the Controller, and the Director of Finance pursuant the procedure established by subdivision (a). The revisions or updates shall specify the fiscal year in which the revisions or updates are applicable.

**SEC. 15.** Section 35035 of the Education Code is amended to read:

**35035.** The superintendent of each school district shall, in addition to other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the school district.

(b) Except in a school district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the school district, at the time it may direct, the budget of the school district for the next ensuing school year, and revise and take other action in connection with the budget as the governing board of the school district may desire.

(c) Be responsible for the preparation and submission to the governing board of the school district, at the time the governing board may direct, the local control and accountability plan of the school district for the subsequent school year, and revise and take other action in connection with the local control and accountability plan as the governing board of the school district may desire.

(d) Except in a school district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, ensure that the local control and accountability plan is implemented.

(e) Subject to the approval of the governing board of the school district, assign all employees of school the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the school district when the superintendent concludes that the transfer is in the best interest of the school district.

(f) Upon adoption, by the school district board, of a school district policy concerning transfers of teachers from one school to another school within the school district, have authority to transfer teachers consistent with that policy.

(g) Determine that each employee of the school district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(h) Enter into contracts for and on behalf of the school district pursuant to Section 17604.

(i) Submit financial and budgetary reports to the governing board of the school district as required by Section 42130.

**SEC. 16.** Section 35735.1 of the Education Code is amended to read:

**35735.1.** (a) The local control funding formula allocation per unit of average daily attendance for newly organized school districts shall be equal to the total of the amount of the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance of the affected school districts computed pursuant to the computations set forth below. The following computations shall be made to determine the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for the newly organized school districts:

(1) Based on the current information available for each affected school district for the second principal apportionment period for the fiscal year before the fiscal year in which the reorganization is to become effective, multiply the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for that school district by the number of units of average daily attendance for that school district that the county superintendent of schools determines will be included in the proposed school district.

(2) Add the amounts calculated pursuant to paragraph (1) and divide that sum by the number of units of average daily attendance in the newly organized school districts.

(b) The amount determined pursuant to subdivision (a) shall be the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance for the newly organized school districts.

(c) The average daily attendance of a newly organized school district, for purposes of Sections 42238.02 and 42238.03, shall be the average daily attendance that is attributable to the area reorganized for the fiscal year before the fiscal year in which the new school district becomes effective for all purposes.

(d) Notwithstanding this section, commencing with the 2013–14 fiscal year, a newly reorganized school district shall receive state-aid funding pursuant to paragraph (3) of subdivision (b) of Section 42238.03 or the total combined per pupil funding amount received by each school district pursuant to paragraphs (1) and (2) of subdivision (a) of Section 42238.03 for the fiscal year before the fiscal year in which the new school district becomes effective for all purposes, whichever is greater.

(e) Notwithstanding any other law, this section shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

(f) Upon a determination that all school districts or charter schools equal or exceed the local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, for all school districts and charter schools, this section shall not apply and the newly reorganized school district shall receive an allocation equal to the amount calculated under Section 42238.02 in that fiscal year and future fiscal years.

**SEC. 17.** Section 35735.2 of the Education Code is repealed.

**SEC. 18.** Section 35736.5 is added to the Education Code, to read:

**35736.5.** Sections 35735 to 35736, inclusive, shall only apply to actions to reorganize school districts initiated on or after July 1, 2013, for which the order to reorganize, pursuant to Section 35765, is appropriately filed after December 1, 2013, pursuant to Section 54902 of the Government Code. Actions to reorganize school districts initiated before July 1, 2013, for which the order to reorganize is appropriately filed on or before December 1, 2013, shall be implemented pursuant to Sections 35735 to 35736, inclusive, as those sections read on January 1, 2013.

**SEC. 19.** Section 37700 of the Education Code is amended to read:

**37700.** (a) Notwithstanding any other law, the Pacific Unified School District, the Leggett Valley Unified School District, and the Reeds Creek Elementary School District may operate one or more schools in their respective districts on a four-day school week, if the district complies with the instructional time requirements specified in Section 37701 and the other requirements of this chapter.

(b) If a school district operates one or more schools on a four-day week pursuant to this section and the program for the school year provides less than the 180 days of instruction required under Section 46200, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as it read on January 1, 2013, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If a school district operates one or more schools on a four-day school week pursuant to this section and the program provides less than the minimum instructional minutes required under Section 46201, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (6) of subdivision (b) of Section 42238, as it read on January 1, 2013, as adjusted from the 1987–88 fiscal year to the 2012–13 fiscal year, inclusive, and, commencing with the 2013–14 fiscal year, pursuant to the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance.

(c) A school district with an exclusive bargaining representative may operate a school on a four-day school week pursuant to this section only if the school district and the representative of each bargaining unit of school district employees mutually agree to that operation in a memorandum of understanding.

(d) Notwithstanding this section, upon a determination that a school district identified in subdivision (a) equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, the school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall offer 180 days or more of instruction per school year, and meet the minimum minute requirements pursuant to paragraph (1) of subdivision (a) of Section 46207.

**SEC. 20.** Section 37710.3 of the Education Code is amended to read:

**37710.3.** (a) Beginning in the 2010–11 fiscal year, the Alpaugh Unified School District may operate one or more schools in the school district on a four-day school week if the district complies with the instructional time requirements in Section 37701 and the other requirements of this chapter. The state board may waive five-consecutive-day operating requirements for any of the following programs that operate on a four-day school week pursuant to this section, provided that the district meets the minimum time requirement for each program:

- (1) Preschools.
- (2) Before and after school programs.
- (3) Independent study programs.
- (4) Child nutrition and food service programs.
- (5) Community day schools.
- (6) Regional occupational centers or programs.
- (7) Continuation high schools.

(b) If the school district operates one or more schools on a four-day school week pursuant to this section, and the program for the school year provides fewer than the 180 days of instruction required under Section 46200, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as it read on January 1, 2013, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If the school district operates one or more schools on a four-day school week pursuant to this section, and the program provides fewer than the minimum instructional minutes required

under Section 46201, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the base revenue limit per unit of average daily attendance pursuant to subdivision (a) of Section 46201, as it read on January 1, 2013, as adjusted from the 1987–88 fiscal year to the 2012–13 fiscal year, inclusive, and, commencing with the 2013–14 fiscal year, pursuant to the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance.

(c) Notwithstanding Section 37710, if a small school having between 11 and 99 valid Standardized Testing and Reporting Program test scores operating on a four-day school week fails to achieve its Academic Performance Index growth target pursuant to Section 52052 for two consecutive years, the authority of that school to operate on a four-day school week shall be permanently revoked commencing with the school year following the second consecutive year the school failed to achieve its Academic Performance Index growth rate.

(d) If the school district operates one or more schools on a four-day school week pursuant to this section, the school district shall submit a report to the department, the Senate Committee on Education, and the Assembly Committee on Education on or before January 15, 2015. The report shall include, but not necessarily be limited to, information on all of the following:

(1) Programs the district offered on the fifth schoolday and their participation rates.

(2) Whether the four-day school week schedule resulted in any fiscal savings.

(3) Impact on overall attendance of the schools operating a four-day school week.

(4) Programs for which the state board waived minimum time and five-consecutive-day requirements and the operational and educational effects of the programs if they operated at less time than required.

(5) The impact of the four-day school week on crime statistics, especially on the day on which school would otherwise be in session.

(6) Information on the Academic Performance Index, pursuant to Section 52052, for every year a school in the district operated on a four-day school week. The information shall include, but not necessarily be limited to, the base and growth Academic Performance Index of each school that operated on a four-day school week and whether that school met the Academic Performance growth targets.

(e) Notwithstanding this section, upon a determination that the school district identified in subdivision (a) equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, the school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall offer 180 days or more of instruction per school year, and meet the minimum minute requirements pursuant to paragraph (1) of subdivision (a) of Section 46207.

(f) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

**SEC. 21.** Section 37710.5 of the Education Code is amended to read:

**37710.5.** (a) Beginning in the 2009–10 fiscal year, the Potter Valley Community Unified School District may operate one or more schools in the school district on a four-day school week if the school district complies with the instructional time requirements specified in Section 37701 and the other requirements of this chapter. The state board may waive five-consecutive-day operating requirements for any of the following programs that operate on a four-day week pursuant to this section, provided that the school district meets the minimum time requirement for each program:

(1) Preschools.

(2) Before and after school programs.

(3) Independent study programs.

(4) Child nutrition and food service programs.

(5) Community day schools.

(6) Regional occupational centers or programs.

(7) Continuation high schools.

(b) If the school district operates one or more schools on a four-day week pursuant to this section, and the program for the school year provides fewer than the 180 days of instruction required under Section 46200, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as it read on January 1, 2013, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If the school district operates one or more schools on a four-day school week pursuant to this section, and the program provides fewer than the minimum instructional minutes required under Section 46201, as it read on January 1, 2013, the Superintendent shall reduce the local control funding formula allocation pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the base revenue limit per unit of average daily attendance pursuant to subdivision (a) of Section 46201, as it read on January 1, 2013, as adjusted from the 1987–88 fiscal year to the 2012–13 fiscal year, inclusive, and, commencing with the 2013–14 fiscal year, pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, per unit of average daily attendance.

(c) If the school district operates one or more schools on a four-day school week pursuant to this section, the school district shall submit a report to the department, the Senate Committee on Education and the Assembly Committee on Education on January 15, 2014. The report shall include, but not necessarily be limited to, information on the following:

(1) Programs the district offered on the fifth day and their participation rates.

(2) Whether the four-day school week schedule resulted in any fiscal savings.

(3) Impact on overall attendance of the schools operating a four-day school week.

(4) Programs for which the Superintendent waived minimum time and five-consecutive-day requirements and the operational and educational effect of the programs if they operated at less time than required.

(d) Notwithstanding this section, upon a determination that the school district identified in subdivision (a) equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, the school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall offer 180 days or more of instruction per school year, and meet the minimum minute requirements pursuant to paragraph (1) of subdivision (a) of Section 46207.

(e) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

**SEC. 22.** Section 41020 of the Education Code is amended to read:

**41020.** (a) It is the intent of the Legislature to encourage sound fiscal management practices among local educational agencies for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the school district, county, and state levels.

(b) (1) Not later than the first day of May of each fiscal year, each county superintendent of schools shall provide for an audit of all funds under his or her jurisdiction and control and the governing board of each local educational agency shall either provide for an audit of the books and accounts of the local educational agency, including an audit of income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing.

(2) A contract to perform the audit of a local educational agency that has a disapproved budget or has received a negative certification on any budget or interim financial report during the current fiscal year or either of the two preceding fiscal years, or for which the county superintendent of schools has otherwise determined that a lack of going concern exists, is not valid unless approved by the responsible county superintendent of schools and the governing board.



(3) If the governing board of a local educational agency has not provided for an audit of the books and accounts of the local educational agency by April 1, the county superintendent of schools having jurisdiction over the local educational agency shall provide for the audit of each local educational agency.

(4) An audit conducted pursuant to this section shall comply fully with the Government Auditing Standards issued by the Comptroller General of the United States.

(5) For purposes of this section, "local educational agency" does not include community colleges.

(c) Each audit conducted in accordance with this section shall include all funds of the local educational agency, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the local educational agency. Each audit shall also include an audit of pupil attendance procedures. Each audit shall include a determination of whether funds were expended pursuant to a local control and accountability plan or an approved annual update to a local control and accountability plan pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4.

(d) All audit reports for each fiscal year shall be developed and reported using a format established by the Controller after consultation with the Superintendent and the Director of Finance.

(e) (1) The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each school district from school district funds.

(2) The cost of the audit provided for by a governing board of a local educational agency shall be paid from local educational agency funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

(f) (1) The audits shall be made by a certified public accountant or a public accountant, licensed by the California Board of Accountancy, and selected by the local educational agency, as applicable, from a directory of certified public accountants and public accountants deemed by the Controller as qualified to conduct audits of local educational agencies, which shall be published by the Controller not later than December 31 of each year.

(2) Commencing with the 2003–04 fiscal year and except as provided in subdivision (d) of Section 41320.1, it is unlawful for a public accounting firm to provide audit services to a local educational agency if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local educational agency in each of the six previous fiscal years. The Education Audits Appeal Panel may waive this requirement if the panel finds that no otherwise eligible auditor is available to perform the audit.

(3) It is the intent of the Legislature that, notwithstanding paragraph (2), the rotation within public accounting firms conform to provisions of the federal Sarbanes-Oxley Act of 2002 (Public Law 107-204; 15 U.S.C. Sec. 7201 et seq.), and upon release of the report required by the act of the Comptroller General of the United States addressing the mandatory rotation of registered public accounting firms, the Legislature intends to reconsider the provisions of paragraph (2). In determining which certified public accountants and public accountants shall be included in the directory, the Controller shall use the following criteria:

(A) The certified public accountants or public accountants shall be in good standing as certified by the Board of Accountancy.

(B) The certified public accountants or public accountants, as a result of a quality control review conducted by the Controller pursuant to Section 14504.2, shall not have been found to have conducted an audit in a manner constituting noncompliance with subdivision (a) of Section 14503.

(g) (1) The auditor's report shall include each of the following:

(A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.

(B) A summary of audit exceptions and management improvement recommendations.

(C) Each audit of a local educational agency shall include an evaluation by the auditor on whether there is substantial doubt about the ability of the local educational agency to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement on Auditing Standards (SAS) No. 59,

as issued by the AICPA regarding disclosure requirements relating to the ability of the entity to continue as a going concern.

(2) To the extent possible, a description of correction or plan of correction shall be incorporated in the audit report, describing the specific actions that are planned to be taken, or that have been taken, to correct the problem identified by the auditor. The descriptions of specific actions to be taken or that have been taken shall not solely consist of general comments such as "will implement," "accepted the recommendation," or "will discuss at a later date."

(h) Not later than December 15, a report of each local educational agency audit for the preceding fiscal year shall be filed with the county superintendent of schools of the county in which the local educational agency is located, the department, and the Controller. The Superintendent shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by those audit reports.

(i) (1) Commencing with the 2002–03 audit of local educational agencies pursuant to this section and subdivision (d) of Section 41320.1, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a local educational agency under his or her jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions have been either corrected or an acceptable plan of correction has been developed.

(2) Commencing with the 2004–05 audit of local educational agencies pursuant to this section and subdivision (d) of Section 41320.1, each county superintendent of schools shall include in the review of audit exceptions performed pursuant to this subdivision those audit exceptions related to use of instructional materials program funds, teacher misassignments pursuant to Section 44258.9, information reported on the school accountability report card required pursuant to Section 33126 and shall determine whether the exceptions are either corrected or an acceptable plan of correction has been developed.

(j) Upon submission of the final audit report to the governing board of each local educational agency and subsequent receipt of the audit by the county superintendent of schools having jurisdiction over the local educational agency, the county office of education shall do all of the following:

(1) Review audit exceptions related to attendance, inventory of equipment, internal control, and other miscellaneous exceptions. Attendance exceptions or issues shall include, but not be limited to, those related to local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, and independent study.

(2) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, then the county superintendent of schools shall notify the local educational agency and request the governing board of the local educational agency to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

(3) Review the description of correction or plan of correction and determine its adequacy. If the description of the correction or plan of correction is not adequate, the county superintendent of schools shall require the local educational agency to resubmit that portion of its response that is inadequate.

(k) Each county superintendent of schools shall certify to the Superintendent and the Controller, not later than May 15, that his or her staff has reviewed all audits of local educational agencies under his or her jurisdiction for the prior fiscal year, that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as otherwise noted in the certification, have been corrected by the local educational agency or that an acceptable plan of correction has been submitted to the county superintendent of schools. In addition, the county superintendent shall identify, by local educational agency, any attendance-related audit exception or exceptions involving state funds, and require the local educational agency to which the audit exceptions were directed to submit appropriate reporting forms for processing by the Superintendent.

(l) In the audit of a local educational agency for a subsequent year, the auditor shall review the correction or plan or plans of correction submitted by the local educational agency to determine if the exceptions have been resolved. If not, the auditor shall immediately notify the appropriate county office of education and the department and restate the exception in the audit report. After receiving that notification, the department shall either consult with the local educational agency to resolve the exception or require the county superintendent of schools to follow up with the local educational agency.

(m) (1) The Superintendent shall be responsible for ensuring that local educational agencies have either corrected or developed plans of correction for any one or more of the following:

- (A) All federal and state compliance audit exceptions identified in the audit.
- (B) Any exceptions that the county superintendent certifies as of May 15 have not been corrected.
- (C) Any repeat audit exceptions that are not assigned to a county superintendent to correct.
- (2) In addition, the Superintendent shall be responsible for ensuring that county superintendents of schools and each county board of education that serves as the governing board of a local educational agency either correct all audit exceptions identified in the audits of county superintendents of schools and of the local educational agencies for which the county boards of education serve as the governing boards or develop acceptable plans of correction for those exceptions.
- (3) The Superintendent shall report annually to the Controller on his or her actions to ensure that school districts, county superintendents of schools, and each county board of education that serves as the governing board of a school district have either corrected or developed plans of correction for any of the exceptions noted pursuant to paragraph (1).
- (n) To facilitate correction of the exceptions identified by the audits issued pursuant to this section, commencing with 2002-03 audits pursuant to this section, the Controller shall require auditors to categorize audit exceptions in each audit report in a manner that will make it clear to both the county superintendent of schools and the Superintendent which exceptions they are responsible for ensuring the correction of by a local educational agency. In addition, the Controller annually shall select a sampling of county superintendents of schools and perform a followup of the audit resolution process of those county superintendents of schools and report the results of that followup to the Superintendent and the county superintendents of schools that were reviewed.
- (o) County superintendents of schools shall adjust subsequent local property tax requirements to correct audit exceptions relating to local educational agency tax rates and tax revenues.
- (p) If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for the audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of the audit shall be paid from local educational agency funds or the county school service fund, as the case may be.
- (q) Audits of regional occupational centers and programs are subject to the provisions of this section.
- (r) This section does not authorize examination of, or reports on, the curriculum used or provided for in any local educational agency.
- (s) Notwithstanding any other provision of law, a nonauditing, management, or other consulting service to be provided to a local educational agency by a certified public accounting firm while the certified public accounting firm is performing an audit of the agency pursuant to this section must be in accord with Government Accounting Standards, Amendment No. 3, as published by the United States General Accounting Office.

**SEC. 23.** Section 41303 of the Education Code is amended to read:

**41303.** The Superintendent shall report to the Controller, on or before the 20th day of October of each year, the total average daily attendance during the preceding fiscal year credited to all kindergarten, including average daily attendance for transitional kindergarten, elementary, high school, and adult schools in the state and to county school tuition funds.

**SEC. 24.** Section 41544 of the Education Code is amended to read:

**41544.** (a) For a basic aid school district that was entitled to reimbursement pursuant to Section 42247.4, as that section read on January 1, 2001, and that received an apportionment pursuant to subdivision (h) of Section 42247.4, as that section read on January 1, 2001, because a court order directs pupils to transfer to that school district as part of the court-ordered voluntary pupil transfer program, the Superintendent, from the 2001-02 fiscal year to the 2012-13 fiscal year, inclusive, shall calculate an apportionment of state funds for that basic aid school district that provides 70 percent of the school district revenue limit calculated pursuant to Section 42238, as that section read on January 1, 2013, that would have been apportioned to the school district from which the pupils were transferred for the average daily attendance of any pupils credited under that court order who did not attend the basic aid school district before the 1995-96 fiscal year.

(b) (1) For a basic aid school district that was entitled to reimbursement pursuant to Section 42247.4, as that section read on January 1, 2001, and that received an apportionment pursuant to subdivision (h) of Section

42247.4, as that section read on January 1, 2001, because a court order directs pupils to transfer to that school district as part of the court-ordered voluntary pupil transfer program, the Superintendent, commencing with the 2013–14 fiscal year, shall calculate an apportionment of state funds for that basic aid school district that provides 70 percent of the school district local control funding formula base grant calculated pursuant to subdivision (d) of Section 42238.02, as implemented by Section 42238.03, that would have been apportioned to the school district from which the pupils were transferred for the average daily attendance of any pupils credited under that court order who did not attend the basic aid school district before the 1995–96 fiscal year.

(2) Notwithstanding paragraph (1), until the Superintendent determines that the school district from which the pupil or pupils were transferred is funded pursuant to Section 42238.02 in the prior fiscal year, the Superintendent shall apportion, for average daily attendance credited pursuant to paragraph (1), 70 percent of the sum of the entitlements for the school district from which the pupil or pupils were transferred for the specified fiscal year as computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), and paragraph (3) of subdivision (b), of Section 42238.03, divided by the average daily attendance of that school district for that fiscal year and then multiplied by the ratio of local control formula base grant funding computed pursuant to subdivision (d) of Section 42238.02 to the local control funding formula amount for that fiscal year computed pursuant to Section 42238.02.

(c) For purposes of subdivision (b) of this section, "basic aid school district" means a school district that does not receive from the state, for any fiscal year in which this section is applied, an apportionment of state funds pursuant to subdivision (o) of Section 42238.02.

**SEC. 25.** Section 42127 of the Education Code is amended to read:

**42127.** (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

(1) Hold a public hearing on the budget to be adopted for the subsequent fiscal year. The budget to be adopted shall be prepared in accordance with Section 42126. The agenda for that hearing shall be posted at least 72 hours before the public hearing and shall include the location where the budget will be available for public inspection.

(A) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each school district budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year and shall maintain staffing and program levels commensurate with that level.

(B) For the 2011–12 fiscal year, the school district shall not be required to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board of the school district shall file that budget with the county superintendent of schools. The budget and supporting data shall be maintained and made available for public review. If the governing board of the school district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made. For the 2014–15 fiscal year and each fiscal year thereafter, the governing board of the school district shall not adopt a budget before the governing board of the school district adopts a local control and accountability plan, if an existing local control and accountability plan or annual update to a local control and accountability plan is not effective for the budget year. The governing board of a school district shall not adopt a budget that does not include the expenditures necessary to implement the local control and accountability plan or the annual update to a local control and accountability plan that is effective during the subsequent fiscal year.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent of schools or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the school district for purposes that exceed apportionments to the school district pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent of schools or the county auditor to compute the amounts. On or before August 15, the county superintendent of schools shall transmit the amounts computed to

the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate computed to the board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets. The county superintendent of schools shall identify, if necessary, technical corrections that are required to be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the school district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments. In addition to his or her own analysis of the budget of each school district, the county superintendent of schools shall review and consider studies, reports, evaluations, or audits of the school district that were commissioned by the school district, the county superintendent of schools, the Superintendent, and state control agencies and that contain evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section 33127 or that contain a finding by an external reviewer that more than three of the 15 most common predictors of a school district needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. The county superintendent of schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the school district will meet its current and future obligations and resolve any problems identified in studies, reports, evaluations, or audits described in this paragraph.

(3) Determine whether the adopted budget includes the expenditures necessary to implement the local control and accountability plan or annual update to the local control and accountability plan approved by the county superintendent of schools.

(d) On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. For the 2014–15 fiscal year and each fiscal year thereafter, the county superintendent of schools shall disapprove a budget if the county superintendent of schools determines that the budget does not include the expenditures necessary to implement a local control and accountability plan or an annual update to the local control and accountability plan approved by the county superintendent of schools. If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall develop, at school district expense, a budget for that school district by September 15 and transmit that budget to the governing board of the school district. The budget prepared by the county superintendent of schools shall be deemed adopted, unless the county superintendent of schools approves any modifications made by the governing board of the school district. The approved budget shall be used as a guide for the school district's priorities. The Superintendent shall review and certify the budget approved by the county. If, pursuant to the review conducted pursuant to subdivision (c), the county superintendent of schools determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall conditionally approve or disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations, including, but not limited to, the amounts of any budget adjustments needed before he or she can approve that budget. The county superintendent of schools may assign a fiscal adviser to assist the school district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the county superintendent of schools no later than August 20. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(e) On or before September 8, the governing board of the school district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Before revising the budget, the governing board of the school district shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. In addition, if the adopted budget is disapproved pursuant to subdivision (d), the governing board of the school district and the county superintendent of schools shall review the disapproval and the

recommendations of the county superintendent of schools regarding revision of the budget at the public hearing. The revised budget and supporting data shall be maintained and made available for public review.

(1) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each school district budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year and shall maintain staffing and program levels commensurate with that level.

(2) For the 2011–12 fiscal year, the school district shall not be required to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(f) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent identifying all school districts for which budgets may be disapproved.

(g) The county superintendent of schools shall examine the revised budget to determine whether it (1) complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the school district to meet its financial obligations during the fiscal year, (3) satisfies all conditions established by the county superintendent of schools in the case of a conditionally approved budget, and (4) is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments, and, not later than October 8, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent of schools immediately has the authority and responsibility provided in Section 42127.3. Upon approving a waiver of the budget review committee, the department shall ensure that a balanced budget is adopted for the school district by November 30. If no budget is adopted by November 30, the Superintendent may adopt a budget for the school district. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any school district, including a school district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, the date the adopted budget is anticipated, and whether the Superintendent has or will exercise his or her authority to adopt a budget for the school district. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(h) Not later than October 8, the county superintendent of schools shall submit a report to the Superintendent identifying all school districts for which budgets have been disapproved or budget review committees waived. The report shall include a copy of the written response transmitted to each of those school districts pursuant to subdivision (d).

(i) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3), rather than by subdivisions (e) and (g), if the governing board of the school district so elects and notifies the county superintendent of schools in writing of that decision, not later than October 31 of the immediately preceding calendar year. On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (e) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

(1) If the adopted budget of a school district is disapproved pursuant to subdivision (d), on or before September 8, the governing board of the school district, in conjunction with the county superintendent of schools, shall review the superintendent's recommendations at a regular meeting of the governing board of the school district and respond to those recommendations. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(2) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent identifying all school districts for which a budget may be tentatively disapproved.

(3) Not later than October 8, after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county

superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent has the authority and responsibility provided to a budget review committee in Section 42127.3. Upon approving a waiver of the budget review committee, the department shall ensure that a balanced budget is adopted for the school district by November 30. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any school district, including a school district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, and the date the adopted budget is anticipated. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(4) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

(j) Any school district for which the county board of education serves as the governing board of the school district is not subject to subdivisions (c) to (h), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

**SEC. 26.** Section 42238 of the Education Code is amended to read:

**42238.** (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for a fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1995–96 fiscal year, the equalization adjustment specified in Section 42238.4.

(3) For the 1996–97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.

(4) For the 1985–86 fiscal year, the amount per unit of average daily attendance received in the 1984–85 fiscal year pursuant to Section 42238.7.

(5) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(6) For the 2004–05 fiscal year, the equalization adjustment specified in Section 42238.44.

(7) For the 2006–07 fiscal year, the equalization adjustment specified in Section 42238.48.

(8) For the 2011–12 fiscal year, the equalization adjustment specified in Section 42238.49.

(c) (1) (A) For the 2010–11 fiscal year, the Superintendent shall compute an add-on for each school district by adding the inflation adjustment specified in Section 42238.1 to the adjustment specified in Section 42238.485.

(B) For the 2011–12 fiscal year and each fiscal year thereafter, the Superintendent shall compute an add-on for each school district by adding the inflation adjustment specified in Section 42238.1 to the amount computed pursuant to this paragraph for the prior fiscal year.

(2) Commencing with the 2010–11 fiscal year, the Superintendent shall compute an add-on for each school district by dividing each school district's fiscal year average daily attendance computed pursuant to Section 42238.5 by the total adjustments in funding for each district made for the 2007–08 fiscal year pursuant to Section 42238.22 as it read on January 1, 2009.

(d) The sum of the base revenue limit computed pursuant to subdivision (b) and the add-on computed pursuant to subdivision (c) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(e) For districts electing to compute units of average daily attendance pursuant to paragraph (2) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(f) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

(g) The reduction required by subdivision (f) shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately before the enactment of Chapter 330 of the Statutes of 1982 was in effect during the 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 was in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for either of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars (\$25,000) by a single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent.

(h) The Superintendent shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of Division 2 of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) (A) The amount, if any, received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15 of, paragraph (4) of subdivision (a) of Section 33607.5 of, or Section 33607.7 of, the Health and Safety Code that is allocated exclusively for educational facilities.

(B) The amount, if any, received pursuant to Sections 34177, 34179.5, 34179.6, and 34188 of the Health and Safety Code.



(C) The amount, if any, received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(7) For a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, the amount of statewide average general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges, as computed by the department pursuant to Section 47633, multiplied by the average daily attendance, in corresponding grade level ranges, of any pupils who attend charter schools funded pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 of Division 4 for which the school district is the sponsoring local educational agency, as defined in Section 47632, and who reside in and would otherwise have been eligible to attend a noncharter school of the school district.

(i) A transfer of pupils of grades 7 and 8 between an elementary school district and a high school district shall not result in the receiving school district receiving a revenue limit apportionment for those pupils that exceeds 105 percent of the statewide average revenue limit for the type and size of the receiving school district.

(j) Commencing with the 2013–14 fiscal year, this section shall be used only for purposes of allocating revenues received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(k) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2022, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 27.** Section 42238.01 is added to the Education Code, to read:

**42238.01.** For purposes of Section 42238.02, the following definitions shall apply:

(a) "Eligible for free or reduced-price meal" means determined to meet federal eligibility criteria for free or reduced-price meals as specified in Section 49531, as that section read on January 1, 2013, except in regard to meals in family day care homes.

(b) "Foster youth" means a foster child, as described in subdivision (a) of Section 48853.5, or a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450 of the Welfare and Institutions Code, who satisfies all of the following criteria:

(1) He or she has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, and not more than 21 years of age, on or after January 1, 2014, and as described in Section 10103.5 of the Welfare and Institutions Code.

(2) He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 of the Welfare and Institutions Code.

(3) He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403 of the Welfare and Institutions Code.

(c) "Pupils of limited English proficiency" means pupils who do not have the clearly developed English language skills of comprehension, speaking, reading, and writing necessary to receive instruction only in English at a level substantially equivalent to pupils of the same age or grade whose primary language is English. "English learner" shall have the same meaning as is provided for in subdivision (a) of Section 306 and as "pupils of limited English proficiency."

**SEC. 28.** Section 42238.02 is added to the Education Code, to read:

**42238.02.** (a) The amount computed pursuant to this section shall be known as the school district and charter school local control funding formula.

(b) (1) For purposes of this section "unduplicated pupil" means a pupil enrolled in a school district or a charter school who is either classified as an English learner, eligible to receive a free or reduced-price meal, or is a foster

youth. A pupil shall be counted only once for purposes of this section if any of the following apply:

- (A) The pupil is classified as an English learner and is eligible for a free or reduced-price meal.
  - (B) The pupil is classified as an English learner and is a foster youth.
  - (C) The pupil is eligible for a free or reduced-price meal and is classified as a foster youth.
  - (D) The pupil is classified as an English learner, is eligible for a free or reduced-price meal, and is a foster youth.
- (2) Commencing with the 2013–14 fiscal year, a school district or charter school shall annually report its enrolled free and reduced-price meal eligibility, foster youth, and English learner pupil-level records to the Superintendent using the California Longitudinal Pupil Achievement Data System.
- (3) (A) Commencing with the 2013–14 fiscal year, a county office of education shall review and validate reported English learner, foster youth, and free or reduced-price meal eligible pupil data for school districts and charter schools under its jurisdiction to ensure the data is reported accurately. The Superintendent shall provide each county office of education with appropriate access to school district and charter school data reports in the California Longitudinal Pupil Achievement Data System for purposes of ensuring data reporting accuracy.
- (B) The Controller shall include the instructions necessary to enforce paragraph (2) in the audit guide required by Section 14502.1. The instructions shall include, but are not necessarily limited to, procedures for determining if the English learner, foster youth, and free or reduced-price meal eligible pupil counts are consistent with the school district's or charter school's English learner, foster youth, and free or reduced-price meal eligible pupil records.
- (4) The Superintendent shall make the calculations pursuant to this section using the data submitted by local educational agencies, including charter schools, through the California Longitudinal Pupil Achievement Data System. The Superintendent shall authorize school districts and charter schools to review and revise, as necessary, their submitted data on English learner, foster youth, and free or reduced-price meal eligible pupil counts to ensure the accuracy of data reflected in the California Longitudinal Pupil Achievement Data System.
- (5) The Superintendent shall annually compute the percentage of unduplicated pupils for each school district and charter school by dividing the enrollment of unduplicated pupils in a school district or charter school by the total enrollment in that school district or charter school pursuant to all of the following:
- (A) For the 2013–14 fiscal year, divide the sum of unduplicated pupils for the 2013–14 fiscal year by the sum of the total pupil enrollment for the 2013–14 fiscal year.
  - (B) For the 2014–15 fiscal year, divide the sum of unduplicated pupils for the 2013–14 and 2014–15 fiscal years by the sum of the total pupil enrollment for the 2013–14 and 2014–15 fiscal years.
  - (C) For the 2015–16 fiscal year and each fiscal year thereafter, divide the sum of unduplicated pupils for the current fiscal year and the two prior fiscal years by the sum of the total pupil enrollment for the current fiscal year and the two prior fiscal years.
- (c) Commencing with the 2013–14 fiscal year and each fiscal year thereafter, the Superintendent shall annually calculate a local control funding formula grant for each school district and charter school in the state pursuant to this section.
- (d) The Superintendent shall compute a grade span adjusted base grant equal to the total of the following amounts:
- (1) For the 2013–14 fiscal year, a base grant of:
    - (A) Six thousand eight hundred forty-five dollars (\$6,845) for average daily attendance in kindergarten and grades 1 to 3, inclusive.
    - (B) Six thousand nine hundred forty-seven dollars (\$6,947) for average daily attendance in grades 4 to 6, inclusive.
    - (C) Seven thousand one hundred fifty-four dollars (\$7,154) for average daily attendance in grades 7 and 8.
    - (D) Eight thousand two hundred eighty-nine dollars (\$8,289) for average daily attendance in grades 9 to 12, inclusive.

(2) In each year the grade span adjusted base grants in paragraph (1) shall be adjusted by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as reported by the Department of Finance.

(3) (A) The Superintendent shall compute an additional adjustment to the kindergarten and grades 1 to 3, inclusive, base grant as adjusted for inflation pursuant to paragraph (2) equal to 10.4 percent. The additional grant shall be calculated by multiplying the kindergarten and grades 1 to 3, inclusive, base grant as adjusted by paragraph (2) by 10.4 percent.

(B) Until paragraph (4) of subdivision (b) of Section 42238.03 is effective, as a condition of the receipt of funds in this paragraph, a school district shall make progress toward maintaining an average class enrollment of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative annual average class enrollment for each schoolsite in those grades is agreed to by the school district, pursuant to the following calculation:

(i) Determine a school district's average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, in the prior year. For the 2013-14 fiscal year, this amount shall be the average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, in the 2012-13 fiscal year.

(ii) Determine a school district's percentage of total need pursuant to paragraph (2) of subdivision (b) of Section 42238.03.

(iii) Determine the percentage of the need calculated in clause (ii) that is met by funding provided to the school district pursuant to paragraph (3) of subdivision (b) of Section 42238.03.

(iv) Determine the difference between the amount computed pursuant to clause (i) and an average class enrollment of not more than 24 pupils.

(v) Calculate a current year average class enrollment adjustment for each schoolsite for kindergarten and grades 1 to 3, inclusive, equal to the adjustment calculated in clause (iv) multiplied by the percentage determined pursuant to clause (iii).

(C) School districts that have an average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of 24 pupils or less for each schoolsite in the 2012-13 fiscal year, shall be exempt from the requirements of subparagraph (B) so long as the school district continues to maintain an average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of not more than 24 pupils, unless a collectively bargained alternative ratio is agreed to by the school district.

(D) Upon full implementation of the local control funding formula, as a condition of the receipt of funds in this paragraph, all school districts shall maintain an average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3, inclusive, unless a collectively bargained alternative ratio is agreed to by the school district.

(E) The average class enrollment requirement for each schoolsite for kindergarten and grades 1 to 3, inclusive, established pursuant to this paragraph shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

(F) The Controller shall include the instructions necessary to enforce this paragraph in the audit guide required by Section 14502.1. The instructions shall include, but are not necessarily limited to, procedures for determining if the average class enrollment for each schoolsite for kindergarten and grades 1 to 3, inclusive, exceeds 24, or an alternative average class enrollment for each schoolsite pursuant to a collectively bargained alternative ratio. The procedures for determining average class enrollment for each schoolsite shall include criteria for employing sampling.

(4) (A) The Superintendent shall compute an additional adjustment to the base grant for grades 9 to 12, inclusive, as adjusted for inflation pursuant to paragraph (2), equal to 2.6 percent. The additional grant shall be calculated by multiplying the base grant for grades 9 to 12, inclusive, as adjusted by paragraph (2), by 2.6 percent.

(B) A school district or charter school shall expend funds appropriated pursuant to this paragraph on pupils enrolled in grades 9 to 12, inclusive, for any purposes or programs that support a school district or charter school in achieving its goals for college and career readiness as described in a school district's local control and accountability plan pursuant to subparagraph (C) of paragraph (4) of subdivision (d) of Section 52060, or a charter school's plan pursuant to Section 47605, 47605.6, or 47606.5, as applicable.

(C) As a condition of the receipt of funds pursuant to this paragraph, a school district or charter school shall report such pupil-level college and career readiness information as may be approved by the state board to implement subparagraph (ii) of subparagraph (F) of paragraph (4) of subdivision (a) of Section 52052.

(D) Funds apportioned pursuant to this paragraph are specifically intended to fund, and shall be first used to offset, the costs of any new programs or higher levels of service required by this paragraph.

(e) The Superintendent shall compute a supplemental grant add-on equal to 20 percent of the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), for each school district's or charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b). The supplemental grant shall be calculated by multiplying the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), by 20 percent and by the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in that school district or charter school. The supplemental grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(f) The Superintendent shall compute a concentration grant add-on equal to 50 percent of the base grants as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), for each school district's or charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school district's or charter school's total enrollment. The concentration grant shall be calculated by multiplying the base grant as specified in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (d), as adjusted by paragraphs (2) to (4), inclusive, of subdivision (d), by 50 percent and by the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the total enrollment in that school district or charter school. For a charter school physically located in only one school district, the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent used to calculate concentration grants shall not exceed the percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school district in which the charter school is physically located. For a charter school physically located in more than one school district, the charter school's percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent used to calculate concentration grants shall not exceed that of the school district with the highest percentage of unduplicated pupils calculated pursuant to paragraph (5) of subdivision (b) in excess of 55 percent of the school districts in which the charter school has a school facility. The concentration grant shall be expended in accordance with the regulations adopted pursuant to Section 42238.07.

(g) The Superintendent shall compute an add-on to the total sum of a school district's or charter school's base, supplemental, and concentration grants equal to the amount of funding a school district or charter school received from funds allocated pursuant to the Targeted Instructional Improvement Block Grant program, as set forth in Article 6 (commencing with Section 41540) of Chapter 3.2, for the 2012-13 fiscal year, as that article read on January 1, 2013. A school district or charter school shall not receive a total funding amount from this add-on greater than the total amount of funding received by the school district or charter school from that program in the 2012-13 fiscal year. The amount computed pursuant to this subdivision shall reflect the reduction specified in paragraph (2) of subdivision (a) of Section 42238.03.

(h) The Superintendent shall compute an add-on to the total sum of a school district's or charter school's base, supplemental, and concentration grants equal to the amount of funding a school district or charter school received from funds allocated pursuant to the Home-to-School Transportation program, as set forth in former Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5, former Article 10 (commencing with Section 41850) of Chapter 5, and the Small School District Transportation program, as set forth in former Article 4.5 (commencing with Section 42290), for the 2012-13 fiscal year. A school district or charter school shall not receive a total funding amount from this add-on greater than the total amount received by the school district or charter school for that program in the 2012-13 fiscal year. The amount computed pursuant to this subdivision shall reflect the reduction specified in paragraph (2) of subdivision (a) of Section 42238.03.

(i) (1) The sum of the local control funding formula rates computed pursuant to subdivisions (c) to (f), inclusive, shall be multiplied by:

(A) For school districts, the average daily attendance of the school district in the corresponding grade level ranges computed pursuant to Section 42238.05.

(B) For charter schools, the total current year average daily attendance in the corresponding grade level ranges.

(2) (A) The amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (d), as multiplied by subparagraph (A) or (B) of paragraph (1), as appropriate.

(B) The amount added pursuant to this paragraph shall not change the calculation of a school district's or charter school's supplemental grant or concentration grant.

(j) The Superintendent shall adjust the sum of each school district's or charter school's amount determined in subdivisions (g) to (i), inclusive, pursuant to the calculation specified in Section 42238.03, less the sum of the following:

(1) (A) For school districts, the property tax revenue received pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(B) For charter schools, the in-lieu property tax amount provided to a charter school pursuant to Section 47635.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of Division 2 of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount, if any, received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), less any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance and that is not an amount received pursuant to Section 33492.15, or paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(7) The amount, if any, received pursuant to Sections 34183 and 34188 of the Health and Safety Code.

(8) Revenue received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(k) A school district shall annually transfer to each of its charter schools funding in lieu of property taxes pursuant to Section 47635.

(l) (1) Nothing in this section shall be interpreted to authorize a school district that receives funding on behalf of a charter school pursuant to Section 47651 to redirect this funding for another purpose unless otherwise authorized in law pursuant to paragraph (2) or pursuant to an agreement between a charter school and its chartering authority.

(2) A school district that receives funding on behalf of a locally funded charter school pursuant to paragraph (2) of subdivision (b) of Section 42605, Section 42606, and subdivision (b) of Section 47634 in the 2012-13 fiscal year may annually redirect for another purpose a percentage of the amount of the funding received on behalf of that charter school. The percentage of funding that may be redirected shall be determined pursuant to the following computation:

(A) (i) Determine the sum of the need fulfilled for that charter school pursuant to paragraph (3) of subdivision (b) of Section 42238.03 in the then current fiscal year for the charter school.

(ii) Determine the sum of the need fulfilled in every fiscal year before the then current fiscal year pursuant to paragraph (3) of subdivision (b) of Section 42238.03 adjusted for changes in average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.03 for the charter school.

(iii) Subtract the amount computed pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) of Section 42238.03 from the amount computed for that charter school under the local control funding formula entitlement computed pursuant to subdivision (i) of Section 42238.02.

(iv) Compute a percentage by dividing the sum of the amounts computed to clauses (i) and (ii) by the amount computed pursuant to clause (iii).

(B) Multiply the percentage computed pursuant to subparagraph (A) by the amount of funding the school district received on behalf of the charter school pursuant to paragraph (2) of subdivision (b) of Section 42605, Section 42606, and subdivision (b) of Section 47634 for the 2012–13 fiscal year.

(C) The maximum amount that may be redirected shall be the lesser of the amount of funding the school district received on behalf of the charter school pursuant to paragraph (2) of subdivision (b) of Section 42605, Section 42606, and subdivision (b) of Section 47634 for the 2012–13 fiscal year or the amount computed pursuant to subparagraph (B).

(3) Commencing with the 2013–14 fiscal year, a school district operating one or more affiliated charter schools shall provide each affiliated charter school schoolsite with no less than the amount of funding the schoolsite received pursuant to the charter school block grant in the 2012–13 fiscal year.

(m) Any calculations in law that are used for purposes of determining if a local educational agency is an excess tax school entity or basic aid school district, including, but not limited to, this section and Sections 42238.03, 41544, 47660, 47632, 47663, 48310, and 48359.5, and Section 95 of the Revenue and Taxation Code, shall be made exclusive of the revenue received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(n) A school district that does not receive an apportionment of state funds pursuant to this section as implemented pursuant to Section 42238.03, excluding funds apportioned pursuant to the requirements of subdivision (d) of Section 42238.03 shall be considered a "basic aid school district" or an "excess tax entity."

(o) The funds apportioned pursuant to this section and Section 42238.03 shall be available to implement the activities required pursuant to Article 4.5 (commencing with Section 52060) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

**SEC. 29.** Section 42238.025 is added to the Education Code, to read:

**42238.025.** (a) In the 2013–14 fiscal year, the Superintendent shall compute an economic recovery target rate for each school district and charter school equal to the sum of the following:

(1) (A) For each school district, the school district's revenue limit in the 2012–13 fiscal year as computed pursuant to this article, as this article read on January 1, 2013, divided by the 2012–13 fiscal year average daily attendance of the school district computed pursuant to Section 42238.05.

(B) For each charter school, the charter school's general purpose funding as computed pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 of Division 4, as that article read on January 1, 2013, and the in-lieu property tax amount provided to the charter school pursuant to Section 47635, as that section read on January 1, 2013, divided by the 2012–13 fiscal year average daily attendance of the school district computed pursuant to Section 42238.05.

(C) The amounts determined pursuant to subparagraphs (A) and (B) of this paragraph shall not reflect the deficit factor adjustments set forth in Section 42238.146 as that section read on January 1, 2013.

(D) The amounts determined pursuant to this subdivision shall be adjusted for the cost of living for the 2013–14 fiscal year pursuant to paragraph (2) of subdivision (d) of Section 42238.02 and an annual average cost-of-living adjustment of 1.94 percent for the 2014–15 fiscal year to the 2020–21 fiscal year, inclusive.

(2) (A) For each school district and charter school the sum of the entitlements from items contained in Section 2.00 of the Budget Act of 2012 for Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-267-0001, 6110-268-0001, 6360-101-

0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division 4, as it read on January 1, 2013, and 2012–13 fiscal year funding for the community day school mandatorily expelled pupils program pursuant to subdivision (c) of Section 48915, divided by the 2012–13 fiscal year average daily attendance of the school district computed pursuant to Section 42238.05.

(B) The amounts determined pursuant to this subdivision shall not be adjusted for the reduction set forth in Section 12.42 of the Budget Act of 2012.

(b) Of the amounts computed for school districts pursuant to subdivision (a), the Superintendent shall determine the funding rate per unit of average daily attendance above which fall not more than 10 percent of the total number of school districts statewide.

(c) The Superintendent shall compute a 2020–21 fiscal year local control funding formula rate for each school district and charter school equal to the amount computed pursuant to Section 42238.02 for the 2013–14 fiscal year, adjusted for an annual average cost-of-living adjustment of 1.94 percent for the 2014–15 fiscal year to the 2020–21 fiscal year, inclusive, divided by the 2012–13 fiscal year average daily attendance of the school district or charter school computed pursuant to Section 42238.05.

(d) (1) For each school district and charter school that has a funding rate per unit of average daily attendance computed pursuant to subdivision (a) that is equal to, or below, the funding rate per unit of average daily attendance determined pursuant to subdivision (b), the Superintendent shall subtract the amount computed pursuant to subdivision (c) from the amount computed pursuant to subdivision (a). Each school district or charter school for which this calculation yields an amount greater than zero shall be eligible for an economic recovery target payment equal to the amount of the difference. A school district or charter school that has a funding rate per unit of average daily attendance calculated pursuant to subdivision (a) that exceeds the rate calculated pursuant to subdivision (b) shall not be eligible for an economic recovery target payment.

(2) Each school district or charter school eligible for an economic recovery target payment pursuant to paragraph (1) shall receive the following apportionments:

(A) For the 2013–14 fiscal year, one-eighth of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(B) For the 2014–15 fiscal year, two-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(C) For the 2015–16 fiscal year, three-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(D) For the 2016–17 fiscal year, four-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(E) For the 2017–18 fiscal year, five-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(F) For the 2018–19 fiscal year, six-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(G) For the 2019–20 fiscal year, seven-eighths of the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(H) For the 2020–21 fiscal year and each fiscal year thereafter, the amount calculated pursuant to paragraph (1) multiplied by the 2012–13 fiscal year average daily attendance computed pursuant to Section 42238.05.

(3) In each fiscal year until a determination has been made that all school districts and charter schools equal or exceed the local control funding formula target computed pursuant to Section 42238.02, as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, the economic recovery target payment apportioned to each eligible school district or charter school pursuant to paragraph (2) shall be added to the school district's or charter school's funding amounts that are continuously appropriated pursuant to subdivision (a) of Section 42238.03 and included in the amount of funding that may be offset pursuant to subdivision (c) of Section 42238.03. The amount apportioned pursuant to paragraph (2) shall not receive a cost-of-living adjustment.

(4) Commencing with the first fiscal year in which all school districts and charter schools are apportioned funding pursuant to Section 42238.02, the economic recovery target payment amount calculated pursuant to paragraph (2) for the applicable fiscal year shall be included as an add-on to the amounts computed pursuant to subdivisions (c) to (i), inclusive, of Section 42238.02 and included in the amount of funding that may be offset pursuant to subdivision (j) of Section 42238.02. The amount included as an add-on pursuant to this paragraph shall not receive a cost-of-living adjustment.

**SEC. 30.** Section 42238.03 is added to the Education Code, to read:

**42238.03.** (a) Commencing with the 2013–14 fiscal year and each fiscal year thereafter, the Superintendent shall calculate a base entitlement for the transition to the local control funding formula for each school district and charter school equal to the sum of the amounts computed pursuant to paragraphs (1) to (4), inclusive. The amounts computed pursuant to paragraphs (1) to (6), inclusive, shall be continuously appropriated pursuant to Section 14002.

(1) The current fiscal year base entitlement funding level shall be the sum of all of the following:

(A) For school districts, revenue limits in the 2012–13 fiscal year as computed pursuant to Article 2 (commencing with Section 42238), as that article read on January 1, 2013, divided by the 2012–13 average daily attendance of the school district computed pursuant to Section 42238.05. That quotient shall be multiplied by the current fiscal year average daily attendance of the school district computed pursuant Section 42238.05.

(B) (i) For charter schools, general purpose funding as computed pursuant to Article 2 (commencing with Section 47633) of Chapter 6, as that article read on January 1, 2013, and the amount of in-lieu property tax provided to the charter school pursuant to Section 47635, as that section read on June 30, 2013, divided by the 2012–13 average daily attendance of the charter school computed pursuant to Section 42238.05. That quotient shall be multiplied by the current fiscal year average daily attendance of the charter school computed pursuant to Section 42238.05.

(ii) The amount computed pursuant to clause (i) shall exclude funds received by a charter school pursuant to Section 47634.1, as that section read on January 1, 2013.

(C) The amount computed pursuant to subparagraphs (A) and (B) shall exclude funds received pursuant to Section 47633, as that section read on January 1, 2013.

(D) The amount computed pursuant to subparagraph (A) shall exclude amounts computed pursuant to Article 4 (commencing with Section 42280). Funding for qualifying necessary small high school and necessary small elementary schools shall be adjusted pursuant Article 4 (commencing with Section 42280) and Section 42238.146, as those provisions read on January 1, 2013.

(2) Entitlements from items contained in Section 2.00, as adjusted pursuant to Section 12.42, of the Budget Act of 2012 for Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-267-0001, 6110-268-0001, 6360-101-0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division 4, as it read on January 1, 2013, and 2012–13 fiscal year funding for pupils enrolled in community day schools who are mandatorily expelled pursuant to subdivision (c) of Section 48915. The entitlement for basic aid school districts shall include the reduction of 8.92 percent as applied pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 3 of Chapter 2 of the Statutes of 2012.

(3) The allocations pursuant to Sections 42606 and 47634.1, as those sections read on January 1, 2013, divided by the 2012–13 average daily attendance of the charter school computed pursuant to Section 42238.05. That quotient shall be multiplied by the current fiscal year average daily attendance of the charter school computed pursuant to Section 42238.05.

(4) The amount allocated to a school district or charter school pursuant to paragraph (3) of subdivision (b) for the fiscal years before the current fiscal year divided by the average daily attendance of the school district or charter school for the fiscal years before the current fiscal year computed pursuant to Section 42238.05. That



quotient shall be multiplied by the current fiscal year average daily attendance of the school district or charter school computed pursuant to Section 42238.05.

(5) For the 2013–14 and 2014–15 fiscal years only, a school district that, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2), received funds on behalf of, or provided funds to, a regional occupational center or program joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing instruction to secondary pupils shall not redirect that funding for another purpose unless otherwise authorized in law or pursuant to an agreement between the regional occupational center or program joint powers agency and the contracting school district.

(6) (A) For the 2013–14 and 2014–15 fiscal years only, a school district that, in the 2012–13 fiscal year, from any of the funding sources identified in paragraph (1) or (2), received funds on behalf of, or provided funds to, a home-to-school transportation joint powers agency established in accordance with Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code for purposes of providing pupil transportation shall not redirect that funding for another purpose unless otherwise authorized in law or pursuant to an agreement between the home-to-school transportation joint powers agency and the contracting school district.

(B) In addition to subparagraph (A), of the funds a school district receives for home-to-school transportation programs pursuant to Article 2 (commencing with Section 39820) of Chapter 1 of Part 23.5, and Article 10 (commencing with Section 41850) of Chapter 5, the school district shall expend no less than the amount of funds the school district expended for home-to-school transportation in the 2012–13 fiscal year.

(7) For the 2013–14 and 2014–15 fiscal years only, of the funds a school district receives for purposes of regional occupational centers or programs, or adult education, the school district shall expend no less than the amount of funds the school district expended for purposes of regional occupational centers or programs, or adult education, respectively, in the 2012–13 fiscal year.

(b) Compute an annual local control funding formula transition adjustment for each school district and charter school as follows:

(1) Subtract the amount computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) from the amount computed for each school district or charter school under the local control funding formula entitlements computed pursuant to subdivision (i) of Section 42238.02. School districts and charter schools with a negative difference shall be deemed to have a zero difference.

(2) Each school district's and charter school's total need as calculated pursuant to paragraph (1) shall be divided by the sum of all school districts' and charter schools' total need to determine the school district's or charter school's respective proportions of total need.

(3) Each school district's and charter school's proportion of total need shall be multiplied by any available appropriations specifically made for purposes of this subdivision, and added to the school district's or charter school's funding amounts as calculated pursuant to subdivision (a).

(4) If the total amount of funds appropriated for purposes of paragraph (3) pursuant to this subdivision are sufficient to fully fund any positive amounts computed pursuant to paragraph (1), the local control funding formula grant computed pursuant to subdivision (c) of Section 42238.02 shall be adjusted to ensure that any available appropriation authority is expended for purposes of the local control funding formula.

(5) Commencing with the first fiscal year after either paragraph (4) or paragraph (2) of subdivision (h) applies, the adjustments in paragraph (2) of subdivision (d) of Section 42238.02 shall be made only if an appropriation for those adjustments is included in the annual Budget Act.

(c) The Superintendent shall subtract from the amounts computed pursuant to subdivisions (a) and (b) the sum of the following:

(1) (A) For school districts, the property tax revenue received pursuant to Chapter 3.5 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(B) For charter schools, the in-lieu property tax amount provided to a charter school pursuant to Section 47635.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of Division 2 of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount, if any, received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), less any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance and that is not an amount received pursuant to Section 33492.15, or paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(7) The amount, if any, received pursuant to Sections 34183 and 34188 of the Health and Safety Code.

(8) Revenue received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(d) A school district or charter school that has a zero difference pursuant to paragraph (1) of subdivision (b) in the prior fiscal year shall receive an entitlement equal to the amount calculated pursuant to Section 42238.02 in the current fiscal year and future fiscal years.

(e) Notwithstanding the computations pursuant to subdivisions (b) to (d), inclusive, and Section 42238.02, commencing with the 2013-14 fiscal year, a school district or charter school shall receive state-aid funding of no less than the sum of the amounts computed pursuant to paragraphs (1) to (3), inclusive.

(1) (A) For school districts, revenue limits in the 2012-13 fiscal year as computed pursuant to Article 2 (commencing with Section 42238), as that article read on January 1, 2013, divided by the 2012-13 average daily attendance of the school district computed pursuant to Section 42238.05. That quotient shall be multiplied by the current fiscal year average daily attendance of the school district computed pursuant Section 42238.05 and then offset for local revenues pursuant to subdivision (c) for the current fiscal year.

(B) (i) For charter schools, general purpose funding in the 2012-13 fiscal year as computed pursuant to Article 2 (commencing with Section 47633) of Chapter 6, as that article read on January 1, 2013, and the amount of in-lieu property tax provided to the charter school in the 2012-13 fiscal year pursuant to Section 47635, as that section read on January 1, 2013, divided by the 2012-13 average daily attendance of the charter school computed pursuant to Section 42238.05. That quotient shall be multiplied by the current fiscal year average daily attendance of the charter school computed pursuant to Section 42238.05 and then offset for local revenues pursuant to subdivision (c) for the current fiscal year.

(ii) The amount computed pursuant to clause (i) shall exclude funds received by a charter school pursuant to Section 47634.1, as that section read on January 1, 2013.

(C) The amount computed pursuant to subparagraphs (A) and (B) shall exclude funds received pursuant to Section 47633, as that section read on January 1, 2013.

(D) The amount computed pursuant to subparagraph (A) shall exclude amounts computed pursuant to Article 4 (commencing with Section 42280). Funding for qualifying necessary small high school and necessary small elementary schools shall be adjusted pursuant Article 4 (commencing with Section 42280) and Section 42238.146, as those provisions read on January 1, 2013.

(E) The amount computed pursuant to subparagraphs (A) to (C), inclusive, shall be reduced by the sum of the amount computed pursuant to paragraphs (1) to (8), inclusive, of subdivision (c).

(2) (A) Entitlements from items contained in Section 2.00, as adjusted pursuant to Section 12.42, of the Budget Act of 2012 for Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-111-0001, 6110-124-0001, 6110-128-0001, 6110-137-0001, 6110-144-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-212-0001, 6110-227-0001, 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001, 6110-248-

0001, 6110-260-0001, 6110-265-0001, 6110-267-0001, 6110-268-0001, 6360-101-0001, 2012–13 fiscal year funding for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of Division 4, as it read on January 1, 2013, and 2012–13 fiscal year funding for pupils enrolled in community day schools who are mandatorily expelled pursuant to subdivision (c) of Section 48915. Notwithstanding Section 39 of Chapter 38 of the Statutes of 2012, the entitlement for basic aid school districts shall include the reduction of 8.92 percent as applied pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 3 of Chapter 2 of the Statutes of 2012.

(3) The allocations pursuant to Sections 42606 and 47634.1, as those sections read on January 1, 2013, divided by the 2012–13 average daily attendance of the charter school. That quotient shall be multiplied by the current fiscal year average daily attendance of the charter school.

(f) (1) For purposes of this section, commencing with the 2013–14 fiscal year and until all school districts and charter schools equal or exceed their local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b), a newly operational charter school shall be determined to have a prior year per average daily attendance funding amount equal to the lesser of:

(A) The prior year funding amount per unit of average daily attendance for the school district in which the charter school is physically located. The Superintendent shall calculate the funding amount per unit of average daily attendance for this purpose by dividing the total local control funding formula entitlement received by that school district in the prior year by prior year average daily attendance of that school district. For purposes of this paragraph, a charter school that is physically located in more than one school district shall use the calculated local control funding entitlement per unit of average daily attendance of the school district with the highest prior year funding amount per unit of average daily attendance.

(B) The charter school's local control funding formula rate computed pursuant to subdivisions (c) to (i), inclusive, of Section 42238.02.

(2) For charter schools funded pursuant to paragraph (1), the charter school shall be eligible to receive growth funding pursuant to subdivision (b) toward meeting the newly operational charter school's local control funding formula target.

(3) Upon a determination that all school districts and charter schools equal or exceed the local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) for all school districts and charter schools, this subdivision shall not apply and the charter school shall receive an allocation equal to the amount calculated under Section 42238.02 in that fiscal year and future fiscal years.

(g) (1) In each fiscal year the Superintendent shall determine the percentage of school districts that are apportioned funding pursuant to this section that is less than the amount computed pursuant to Section 42238.02 as of the second principal apportionments of the fiscal year. If the percentage is less than 10 percent, the Superintendent shall apportion funding to the school districts and charter schools equal to the amount computed pursuant to Section 42238.02 in that fiscal year.

(2) For each fiscal year thereafter, the Superintendent shall apportion funding to a school district and charter school equal to the amount computed pursuant to Section 42238.02.

**SEC. 31.** Section 42238.04 is added to the Education Code, to read:

**42238.04.** Notwithstanding any other law, revenue limit funding for school districts and charter school block grant funding for charter schools for the 2012–13 fiscal year and prior fiscal years shall continue to be adjusted pursuant to Article 2 (commencing with Section 42238), and Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 of Division 4, as those articles read on January 1, 2013.

**SEC. 32.** Section 42238.05 is added to the Education Code, to read:

**42238.05.** (a) For purposes of Sections 42238.02 and 42238.03, the fiscal year average daily attendance shall be computed pursuant to paragraph (1) or (2).

(1) The second principal apportionment regular average daily attendance for either the current or prior fiscal year, whichever is greater. However, prior fiscal year average daily attendance shall be adjusted for any loss or

gain of average daily attendance due to a reorganization or transfer of territory.

(2) A school district that elects to receive funding pursuant to Article 4 (commencing with Section 42280) shall compute its units of average daily attendance for purposes of paragraphs (1), (3), and (4), of subdivision (d) of Section 42238.02 by subtracting the amount determined in subparagraph (B) from the amount determined in subparagraph (A).

(A) The units of average daily attendance computed pursuant to paragraph (1).

(B) The units of average daily attendance resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).

(b) For purposes of this article, regular average daily attendance shall be the base grant average daily attendance.

(c) For purposes of this section, the Superintendent shall distribute total ungraded enrollment and average daily attendance among kindergarten and each of grades 1 to 12, inclusive, in proportion to the amounts of graded enrollment and average daily attendance, respectively, in each of these grades.

(d) For purposes of this section, the Superintendent shall distribute average daily attendance generated by the difference between prior year average daily attendance and current year average daily attendance, if positive, among kindergarten and each of grades 1 to 12, inclusive, in proportion to the amounts of graded average daily attendance, respectively, in each of these grades.

(e) This section shall only apply to average daily attendance generated by school districts and shall not apply to average daily attendance generated by charter schools.

(f) A pupil shall not be counted more than once for purposes of calculating average daily attendance pursuant to this section.

**SEC. 33.** Section 42238.051 is added to the Education Code, to read:

**42238.051.** (a) For purposes of paragraph (1) of subdivision (a) of Section 42238.05, a sponsoring school district's average daily attendance shall be computed as follows:

(1) Compute the sponsoring school district's regular average daily attendance in the current year, excluding the attendance of pupils in charter schools.

(2) (A) Compute the regular average daily attendance used to calculate the second principal apportionment of the school district for the prior year, excluding the attendance of pupils in charter schools.

(B) Compute the attendance of pupils who attended one or more noncharter schools of the school district between July 1, and the last day of the second period, inclusive, in the prior year, and who attended a charter school sponsored by the school district between July 1, and the last day of the second period, inclusive, in the current year. For purposes of this subparagraph, a pupil enrolled in a grade at a charter school sponsored by the school district shall not be counted if the school district does not offer classes for pupils enrolled in that grade. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the charter school in the current year.

(C) Compute the attendance of pupils who attended a charter school sponsored by the school district in the prior year and who attended one or more noncharter schools of the school district in the current year. The amount of the attendance counted for any pupil for the purpose of this subparagraph may not be greater than the attendance claimed for that pupil by the school district in the current year.

(D) From the amount determined pursuant to subparagraph (B), subtract the amount determined pursuant to subparagraph (C). If the result is less than zero, the amount shall be deemed to be zero.

(E) The prior year average daily attendance determined pursuant to subparagraph (A) shall be reduced by the amount determined pursuant to subparagraph (D).

(3) To the greater of the amounts computed pursuant to paragraphs (1) and (2), add the regular average daily attendance in the current year of all pupils attending charter schools sponsored by the school district that are not funded through the charter schools local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03.

(b) For purposes of this section, a "sponsoring school district" shall mean a "sponsoring local educational agency," as defined in Section 47632, as that section read on January 1, 2013.

**SEC. 34.** Section 42238.052 is added to the Education Code, to read:

**42238.052.** (a) Notwithstanding any other law, the prior year average daily attendance for a school district determined pursuant to subdivision (a) of Section 42238.051 shall be increased by the prior year second principal apportionment average daily attendance of a school district only for a school that meets the following description:

- (1) The school was a district noncharter school in any year before the prior year.
- (2) The school was operated as a district-approved charter school in the prior year.
- (3) The school is again operated as a district noncharter school in the current year.

(b) An adjustment to prior year average daily attendance pursuant to this section may not be made for the attendance of pupils who were not residents of the school district in the prior year.

**SEC. 35.** Section 42238.053 is added to the Education Code, to read:

**42238.053.** (a) The fiscal year average daily attendance computed under Section 42238.05 shall be increased, for each school district that operates a school that meets the eligibility requirements set forth in subdivision (b), by the number of days of attendance of pupils enrolled in eligible schools in the school district who are currently migratory children, as defined by Section 54441, and who are residing in state-operated migrant housing projects between the second principal apportionment and the end of the regular school year, divided by the number of days school was actually taught in the regular day schools of the district, excluding Saturdays and Sundays.

(b) For a school district to be eligible for purposes of this section, the following conditions shall apply:

- (1) One or more state-operated migrant housing projects are located within the attendance area of the school.
- (2) The maximum number of pupils enrolled in the school in the relevant fiscal year who are currently migratory children, as calculated under subdivision (a), constitutes not less than one-third of the total pupil enrollment of the school.

(c) The Superintendent shall establish rules and regulations for the implementation of this section.

**SEC. 36.** Section 42238.06 is added to the Education Code, to read:

**42238.06.** Commencing on July 1, 2013, except for Sections 42238, 42238.1, 42238.2, and 42238.5, or where the context requires otherwise, all of the following shall apply:

- (a) References to "revenue limit" shall instead refer to the "local control funding formula."
- (b) References to "the revenue limit calculated pursuant to Section 42238" shall instead refer to "the local control funding formula calculated pursuant to Section 42238.02, as implemented by Section 42238.03."
- (c) References to "Section 42238" shall instead refer to "Section 42238.02, as implemented pursuant to Section 42238.03."
- (d) References to "Section 42238.1" shall instead refer to "Section 42238.02."
- (e) References to "Section 42238.5" shall instead refer to "Section 42238.05."
- (f) References to "general-purpose entitlement" shall instead refer to "local control funding formula grant funding pursuant to Section 42238.02, as implemented by Section 42238.03."

**SEC. 37.** Section 42238.07 is added to the Education Code, to read:

**42238.07.** (a) On or before January 31, 2014, the state board shall adopt regulations that govern the expenditure of funds apportioned on the basis of the number and concentration of unduplicated pupils pursuant to Sections

2574, 2575, 42238.02, and 42238.03. The regulations shall include, but are not limited to, provisions that do all of the following:

(1) Require a school district, county office of education, or charter school to increase or improve services for unduplicated pupils in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated pupils in the school district, county office of education, or charter school.

(2) Authorize a school district, county office of education, or charter school to use funds apportioned on the basis of the number of unduplicated pupils for schoolwide purposes, or, for school districts, districtwide purposes, for county offices of education, countywide purposes, or for charter schools, charterwide purposes, in a manner that is no more restrictive than the restrictions provided for in Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301, et seq.).

(b) The state board may adopt emergency regulations for purposes of this section.

**SEC. 38.** Section 42238.1 of the Education Code is amended to read:

**42238.1.** (a) For the 1986–87 fiscal year and each fiscal year up to and including the 1998–99 fiscal year, the Superintendent of Public Instruction shall compute an inflation adjustment equal to the product of paragraphs (1) and (2):

(1) Compute the sum of the following:

(A) The statewide average base revenue limit per unit of average daily attendance for the prior fiscal year for districts of similar type.

(B) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 for the prior fiscal year.

(2) The percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 1 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 1 of the second preceding fiscal year, as reported by the Department of Finance.

(b) For the 1999–2000 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute an inflation adjustment equal to the product of paragraphs (1) and (2):

(1) Compute the sum of the following:

(A) The statewide average base revenue limit per unit of average daily attendance for the prior fiscal year for districts of similar type.

(B) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 for the prior fiscal year.

(2) The percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 10 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 10 of the preceding fiscal year, as report by the Department of Finance.

(c) This section shall become operative July 1, 1986.

(d) Commencing with the 2013–14 fiscal year, this section shall be used only for purposes of allocating revenues received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(e) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2022, deletes or extends the dates on which it

becomes inoperative and is repealed.

**SEC. 39.** Section 42238.2 of the Education Code is amended to read:

**42238.2.** (a) (1) Notwithstanding Section 42238.5 or any other provision of law, a school district that meets any of the following conditions shall be entitled to an adjustment to its units of average daily attendance pursuant to this section:

(A) The school district experiences a decline in the number of units of average daily attendance in excess of 8 percent of its total average daily attendance as a result of the closure of a facility operated by a branch of the United States Armed Forces in the school district's boundaries.

(B) The school district experiences a decline in the number of units of average daily attendance that is less than 8 percent but at least 5 percent of its total average daily attendance as a result of the closure of a facility operated by a branch of the United States Armed Forces in that school district's boundaries, upon a finding by both the Superintendent of Public Instruction and the Director of Finance that both of the following conditions exist:

(i) The school district demonstrates that at the end of a three-year period the school district will experience a 10-percent reduction in the amount of funding that the school district would otherwise have received from state apportionments, funding received pursuant to the California State Lottery Act of 1984 (Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code), and funding received pursuant to Title VIII of Public Law 103-382, as a result of the loss of pupils related to the closure of a facility operated by a branch of the United States Armed Forces.

(ii) The fiscal crisis and management assistance team established pursuant to Section 42127.8 has reviewed the school district's finances and has found that the school district has taken significant steps to reduce expenditure.

(C) The school district experiences a decline in the number of units of average daily attendance in excess of 5 percent of its total average daily attendance and the Director of Finance determines that the school district is likely, within eight years of that decline, to maintain a number of units of average daily attendance that is equivalent to the number of units of average daily attendance maintained by the school district prior to the decline. Notwithstanding subdivision (b), loan repayments shall commence no later than the fourth year after the base year or at a later time, as determined by the Director of Finance.

(2) For purposes of this section, the year preceding a decline shall be the base year.

(b) In the second year after the base year, the district average daily attendance pursuant to Section 42238.5 may, if the district chooses, be increased by 75 percent of the difference between the base year units of average daily attendance and the units of average daily attendance in the first year of decline. In the third year after the base year, the district average daily attendance pursuant to Section 42238.5 may, if the district chooses, be increased by 50 percent of the difference between the base year units of average daily attendance and the units of average daily attendance in the first year of decline. The amount of money represented by these increases shall be considered a loan to the school district. Loan repayments shall commence no later than the fourth year after the base year.

(c) (1) The Superintendent of Public Instruction, in consultation with a school district subject to this section, shall determine a schedule for repayment of the total amount loaned pursuant to this section which may not exceed 10 years. Payments shall include interest charged at a rate based on the most current investment rate of the Pooled Money Investment Account in the General Fund as of the date of the disbursement of funds to the school district.

(2) Upon written notification by the Superintendent of Public Instruction that the school district has not made one or more of the payments required by the schedule established pursuant to paragraph (1), the Controller shall withhold from Section A of the State School Fund the defaulted payment which shall not exceed the amount of any apportionment entitlement of the district to moneys in Section A of the State School Fund. In that regard, the Controller shall withhold the amount of any payment made under this subdivision, including reimbursement of the Controller's administrative costs as determined under a schedule approved by the California Debt Advisory Commission, from subsequent apportionments to the school district from Section A of the State School Fund.

(3) Any apportionments made by the Controller pursuant to paragraph (2) shall be deemed to be an allocation to the school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, and for purposes of Chapter 2 (commencing with Section 41200) of Part 24.

(d) In no event shall the adjustment provided by this section cause the apportionment to a school district to exceed the amount that would otherwise be calculated for apportionment to the district pursuant to Sections 42238 and 42238.1.

(e) This section does not apply to a school district that experiences a decline in enrollment as a result of a school district reorganization pursuant to Chapter 3 (commencing with Section 35500) of Part 21 or any other law.

(f) Commencing with the 2013–14 fiscal year, this section shall be used only for purposes of allocating revenues received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(g) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2022, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 40.** Section 42238.5 of the Education Code is amended to read:

**42238.5.** (a) For purposes of Section 42238, the fiscal year average daily attendance shall be computed pursuant to paragraph (1) or (2).

(1) The second principal apportionment regular average daily attendance for either the current or prior fiscal year, whichever is greater. However, prior fiscal year average daily attendance shall be adjusted for any loss or gain of average daily attendance due to a reorganization or transfer of territory, or, commencing in the 1993–94 fiscal year, and each fiscal year thereafter, for any change in average daily attendance for pupils who are concurrently enrolled in adult programs and classes pursuant to Section 52616.17.

(2) Any school district that elects to receive funding pursuant to Article 4 (commencing with Section 42280) shall compute its units of average daily attendance for purposes of Section 42238 by subtracting the amount determined in subparagraph (B) from the amount determined in subparagraph (A).

(A) The units of average daily attendance computed pursuant to paragraph (1).

(B) The units of average daily attendance resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280).

(b) For purposes of this article, regular average daily attendance shall be the base revenue limit average daily attendance, excluding summer school average daily attendance.

(c) For purposes of this section, for the 1998–99 fiscal year only, the prior year average daily attendance shall be the 1997–98 regular average daily attendance, excluding absences excused pursuant to subdivision (b) of Section 46010, as that subdivision read on July 1, 1996.

(d) Commencing with the 2013–14 fiscal year, this section shall be used only for purposes of allocating revenues received pursuant to subparagraph (B) of paragraph (3) of subdivision (e) of Section 36 of Article XIII of the California Constitution.

(e) This section shall become inoperative on July 1, 2021, and, as of January 1, 2022, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2022, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 41.** Section 42238.15 of the Education Code is amended to read:

**42238.15.** (a) Notwithstanding any other law, and in lieu of any inflation or cost-of-living adjustment otherwise authorized for any of the programs enumerated in subdivision (b), state funding for the programs enumerated in subdivision (b) shall be increased annually by the product of the following:

(1) The sum of 1.0 plus the percentage change determined under paragraph (2) of subdivision (d) of Section 42238.02.

(2) The sum of 1.0 plus the percentage of increase, from the prior fiscal year to the current fiscal year, in each of the workload factors described in subdivision (b).

(b) The programs for which annual state funding increases are determined under this section, and the factors used to measure workload for each of those programs, are as follows:



(1) Special education programs and services, as measured by the regular second principal apportionment average daily attendance for kindergarten and grades 1 to 12, inclusive.

(2) Child care and development programs, and preschool programs, as measured by the state population of children up to and including four years of age.

(c) Notwithstanding any other law, child care and development programs shall not receive a cost-of-living adjustment in the 2012–13, 2013–14, and 2014–15 fiscal years.

**SEC. 42.** Section 42280 of the Education Code is amended to read:

**42280.** (a) For each school district that meets, in the current or prior fiscal year, the conditions specified in Section 42281, 42282, or 42284 the Superintendent shall compute, for each qualifying school in the school district, an amount pursuant to this article.

(b) For each school district that is a countywide unified school district that had fewer than 2,501 units of average daily attendance in the 1990–91 fiscal year, the Superintendent shall compute an amount pursuant to this article for those schools that meet the conditions specified in Sections 42283 and 42285 in the current or prior fiscal year. This subdivision is only applicable to those schools funded pursuant to this article in the 1990–91 fiscal year and, in subsequent years, if the school district has no more than 3,000 units of average daily attendance.

**SEC. 43.** Section 42281 of the Education Code is amended to read:

**42281.** Except as specified in paragraph (4), for each elementary school district that maintains only one school with a second principal apportionment average daily attendance of less than 97, the Superintendent shall make one of the following computations, whichever provides the lesser amount:

(a) For each small school that has an average daily attendance during the fiscal year of less than 25, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school at least one teacher was hired full time, the Superintendent shall compute for the school district fifty-two thousand nine hundred twenty-five dollars (\$52,925).

(b) For each small school that has an average daily attendance during the fiscal year of 25 or more and less than 49, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district one hundred five thousand eight hundred fifty dollars (\$105,850).

(c) For each small school that has an average daily attendance during the fiscal year of 49 or more but less than 73, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school three teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district one hundred fifty-eight thousand seven hundred seventy-five dollars (\$158,775).

(d) For each small school that has an average daily attendance during the fiscal year of 73 or more and less than 97, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district two hundred eleven thousand seven hundred dollars (\$211,700). A school district that qualifies under this subdivision may use this funding calculation until the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance multiplied by the average daily attendance produces state aid equal to the small school funding formula.

**SEC. 44.** Section 42282 of the Education Code is amended to read:

**42282.** For each district with fewer than 2,501 units of second principal apportionment average daily attendance, on account of each necessary small school, the Superintendent shall make the following computations:

(a) For each necessary small school which has an average daily attendance during the fiscal year of less than 25, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school at least one teacher was hired full time, the Superintendent shall compute for the school district fifty-two thousand nine hundred twenty-five dollars (\$52,925).

(b) For each necessary small school which has an average daily attendance during the fiscal year of 25 or more and less than 49, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school at least two teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district one hundred five thousand eight hundred fifty dollars (\$105,850).

(c) For each necessary small school which has an average daily attendance during the fiscal year of 49 or more, but less than 73, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school three teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district one hundred fifty-eight thousand seven hundred seventy-five dollars (\$158,775).

(d) For each necessary small school which has an average daily attendance during the fiscal year of 73 or more and less than 97, exclusive of pupils attending the 7th and 8th grades of a junior high school, and for which school four teachers were hired full time for more than one-half of the days schools were maintained, the Superintendent shall compute for the school district two hundred eleven thousand seven hundred dollars (\$211,700).

(e) A school district that qualifies under this section may use this funding calculation until the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance multiplied by the average daily attendance produces state aid equal to the small school funding formula.

**SEC. 45.** Section 42282.1 of the Education Code is repealed.

**SEC. 46.** Section 42283 of the Education Code is amended to read:

**42283.** (a) For purposes of Sections 42281 and 42282, a "necessary small school" is an elementary school with an average daily attendance of less than 97, exclusive of pupils attending the seventh and eighth grades of a junior high school, maintained by a school district to which school any of the following conditions apply:

(1) If as many as five pupils residing in the school district and attending kindergarten and grades 1 to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 97 would be required to travel more than 10 miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(2) If as many as 15 pupils residing in the school district and attending kindergarten and grades 1 to 8, inclusive, exclusive of pupils attending the seventh and eighth grades of a junior high school in the elementary school with an average daily attendance of less than 97 would be required to travel more than five miles one way from a point on a well-traveled road nearest their home to the nearest other public elementary school.

(3) If topographical or other conditions exist in a school district which would impose unusual hardships if the number of miles specified in paragraph (1) or (2) were required to be traveled, or if during the fiscal year the roads which would be traveled have been impassable for more than an average of two weeks per year for the preceding five years, the governing board of the school district may, on or before April 1, request the Superintendent, in writing, for an exemption from these requirements or for a reduction in the miles required. The request shall be accompanied by a statement of the conditions upon which the request is based, giving the information in a form required by the Superintendent. The Superintendent shall cause an investigation to be made, and shall either grant the request to the extent he or she deems necessary, or deny the request.

(b) For purposes of this section, "other public elementary school" is a public school, including a charter school, that serves kindergarten or any of grades 1 to 8, inclusive, exclusive of grades 7 and 8 of a junior high school.

**SEC. 47.** Section 42283.1 of the Education Code is repealed.

**SEC. 48.** Section 42283.2 of the Education Code is repealed.

**SEC. 49.** Section 42284 of the Education Code is amended to read:

**42284.** (a) For each district with fewer than 2,501 units of average daily attendance, on account of each necessary small high school, the county superintendent of schools shall make one of the following computations selected with regard only to the number of certificated employees employed or average daily attendance, whichever provides the lesser amount:

Average daily attendance	Minimum number of certificated employees	Amount to be computed
1- 19 .....	less than 3	\$42,980
		per teacher
1- 19 .....	3	191,340
20- 38 .....	4	234,320
39- 57 .....	5	277,300
58- 71 .....	6	320,280
72- 86 .....	7	363,260
87- 100 .....	8	406,240
01-114 .....	9	449,220
115-129 .....	10	492,200
130-143 .....	11	535,180
44-171 .....	12	578,160
172-210 .....	13	621,140
211-248 .....	14	664,120
249-286 .....	15	707,100

(b) For purposes of this section, a "certificated employee" means an equivalent full-time position of an individual holding a credential authorizing service and providing service in grades 9 to 12, inclusive, in any secondary school. Any fraction of an equivalent full-time position remaining after all equivalent full-time positions for certificated employees within the district have been calculated shall be deemed to be a full-time position.

(c) A school district that qualifies under this section may use the funding calculation as provided in this section until the local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, per unit of average daily attendance multiplied by the average daily attendance produces state aid equal to the funding provided under this section.

**SEC. 50.** Section 42285 of the Education Code is amended to read:

**42285.** (a) For the purposes of Section 42284, a necessary small high school is a high school with an average daily attendance of less than 287 that comes within any of the following conditions:

(1) The projection of its future enrollment on the basis of the enrollment of the elementary schools in the district shows that within eight years the enrollment in high school in grades 9 to 12, inclusive, will exceed 286 pupils.

(2) Any one of the following combinations of distance and units of average daily attendance applies:

(A) The high school had an average daily attendance of less than 96 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than 15 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 20 miles or 25 percent of the pupils would be required to travel 30 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(B) The high school had an average daily attendance of 96 or more and less than 144 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than 10 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 18 miles or 25 percent of the pupils would be required to travel 25 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(C) The high school had an average daily attendance of 144 or more and less than 192 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than 7 1/2 miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 15 miles or 25 percent of the pupils would be required to travel 20 miles one way from a point on a well-traveled road nearest their homes to the nearest other public high school.

(D) The high school had an average daily attendance of 192 or more and less than 287 in grades 9 to 12, inclusive, during the preceding fiscal year and is more than five miles by well-traveled road from the nearest other public high school and either 90 percent of the pupils would be required to travel 10 miles or 25 percent of the pupils would be required to travel 15 miles to the nearest other public high school.

(3) Topographical or other conditions exist in the school district which would impose unusual hardships on the pupils if the number of miles specified above were required to be traveled. In these cases, the Superintendent may, when requested, and after investigation, grant exceptions from the distance requirements.

(4) The Superintendent has approved the recommendation of a county committee on school district organization designating one of two or more schools as necessary isolated schools in a situation where the schools are operated by two or more school districts and the average daily attendance of each of the schools is less than 287 in grades 9 to 12, inclusive.

(b) For purposes of Section 42284, a necessary small high school also includes a high school maintained by a school district for the exclusive purpose of educating juvenile hall pupils or pupils with exceptional needs.

(c) For purposes of Section 42284, a necessary small high school does not include a continuation school.

(d) For purposes of this section, "other public high school" is a public school, including a charter school, that serves any of grades 9 to 12, inclusive, or grades 7 and 8 in a junior high school.

**SEC. 51.** Section 42285.1 of the Education Code is repealed.

**SEC. 52.** Section 42285.4 of the Education Code is repealed.

**SEC. 53.** Section 42285.5 of the Education Code is amended to read:

**42285.5.** (a) For purposes of subdivision (a) of Section 42284 and Section 42285, a school district may include average daily attendance in grades 7 and 8 and the instructors of grade 7 and 8 pupils in the calculation of average daily attendance and number of certificated employees employed.

(b) Notwithstanding Sections 42284 and 42285, for purposes of this section, with respect to a school district eligible to utilize subdivision (a), any references to grades 9 to 12, inclusive, in Sections 42284 and 42285 shall be deemed instead to be references to grades 7 to 12, inclusive.

**SEC. 54.** Section 42286 of the Education Code is amended to read:

**42286.** (a) Except as required under subdivision (b), if a high school is determined to be a necessary small high school under Section 42285, that status shall not be changed except as a review of the determinative factors made every two years following the date of the determination indicates that the determination should be changed.

(b) If a high school is determined to be a necessary small high school under paragraph (3) of subdivision (b) of Section 42285, that status shall not be changed except as a review of the determinative factors made every two years following the date of the determination indicates that the determination should be changed.

(c) A high school that has not been determined to be a necessary small high school under Section 42285, may be determined to be a necessary small high school at the beginning of a fiscal year if it meets the criteria specified in Section 42285.

**SEC. 55.** Section 42287 of the Education Code is amended to read:

**42287.** (a) For the 1984–85 fiscal year to the 2012–13 fiscal year, inclusive, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 by an amount proportionate to the increase applied to the statewide average revenue limit for unified school districts for the then current fiscal year.

(b) Commencing with the 2013–14 fiscal year, the Superintendent shall increase the funding amounts specified in Sections 42281, 42282, and 42284, as previously increased pursuant to subdivision (a) and Sections 42289 to 42289.5, inclusive, by an amount proportionate to the increase in the statewide average local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, for the then current fiscal year.

**SEC. 56.** Section 42289 of the Education Code is amended to read:

**42289.** Notwithstanding any other law, for each fiscal year through the 2012–13 fiscal year, before calculating the increase in funding amount specified in Section 42287, the Superintendent shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the product of subdivisions (a) and (b):

(a) The amount per unit of average daily attendance received by the school district pursuant to Section 46201 in the prior fiscal year.

(b) The average daily attendance for each necessary small school and necessary small high school for which the school district received funding in the prior fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

**SEC. 57.** Section 42289.1 of the Education Code is amended to read:

**42289.1.** (a) Notwithstanding any other law, for the 1988–89 fiscal year to the 2012–13 fiscal year, inclusive, after calculating the increase in funding amounts specified in Section 42287, the Superintendent shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the sum of paragraphs (1) and (2):

(1) Compute the product of subparagraphs (A) and (B):

(A) The amount per unit of average daily attendance computed pursuant to subdivision (g) of Section 42240.

(B) The average daily attendance for each necessary small school and necessary small high school for which the district receives funding in the current fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

(2) From the 1990–91 fiscal year to the 2012–13 fiscal year, inclusive, the amount computed pursuant to paragraph (1) shall be increased by the percentage cost-of-living increase given to school district revenue limits for the then current fiscal year.

**SEC. 58.** Section 42289.2 of the Education Code is amended to read:

**42289.2.** (a) Notwithstanding any other law, for the 1989–90 fiscal year to the 2012–13 fiscal year, inclusive, after calculating the increase in funding amounts specified in Section 42287, the Superintendent shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the sum of paragraphs (1) and (2):

(1) Compute the product of subparagraphs (A) and (B):

(A) The amount per unit of average daily attendance computed pursuant to subdivision (e) of Section 54060.5.

(B) The average daily attendance for each necessary small school and necessary small high school for which the school district receives funding in the current fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

(2) From the 1990–91 fiscal year to the 2012–13 fiscal year, inclusive, the amount computed pursuant to paragraph (1) shall be increased by the percentage cost-of-living increase given to school district revenue limits for the then current fiscal year.

**SEC. 59.** Section 42289.3 of the Education Code is amended to read:

**42289.3.** (a) Notwithstanding any other law, for the 1989–90 fiscal year to the 2012–13 fiscal year, inclusive, after calculating the increase in funding amounts specified in Section 42287, the Superintendent shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the sum of paragraphs (1) and (2):

(1) Compute the product of subparagraphs (A) and (B):

(A) The amount per unit of average daily attendance computed pursuant to subdivision (e) of Section 54060.6.

(B) The average daily attendance for each necessary small school and necessary small high school for which the school district receives funding in the current fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

(2) From the 1990–91 fiscal year to the 2012–13 fiscal year, inclusive, the amount computed pursuant to paragraph (1) shall be increased by the percentage cost-of-living increase given to school district revenue limits

for the then current fiscal year.

**SEC. 60.** Section 42289.4 of the Education Code is amended to read:

**42289.4.** (a) Notwithstanding any other law, for the 1989–90 fiscal year to the 2012–13 fiscal year, inclusive, after calculating the increase in funding amounts specified in Section 42287, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the sum of paragraphs (1) and (2):

(1) Compute the product of subparagraphs (A) and (B):

(A) The amount per unit of average daily attendance computed pursuant to subdivision (b) of Section 54060.7.

(B) The average daily attendance for each necessary small school and necessary small high school for which the school district receives funding in the current fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

(2) From the 1990–91 fiscal year to the 2012–13 fiscal year, inclusive, the amount computed pursuant to paragraph (1) shall be increased by the percentage cost-of-living increase given to school district revenue limits for the then current fiscal year.

**SEC. 61.** Section 42289.5 of the Education Code is amended to read:

**42289.5.** Notwithstanding any other law, the increases determined pursuant to Sections 42289, 42289.1, 42289.3, and 42289.4 shall be permanently increased for the 1998–99 fiscal year by the quotient, for each school district eligible for an increase, of the amount determined pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 42238.8, as that section read on January 1, 2013, divided by the amount determined pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 42238.8, as that section read on January 1, 2013.

**SEC. 62.** Section 42605 of the Education Code is repealed.

**SEC. 63.** Section 42606 of the Education Code is repealed.

**SEC. 64.** Section 42800 of the Education Code is amended to read:

**42800.** (a) The governing board of a school district may, with the consent of the county superintendent of schools, establish a revolving cash fund for the use of the chief accounting officer of the school district, by adopting a resolution setting forth the necessity for the revolving cash fund, the officer for whom and the purposes for which the revolving cash fund shall be available, and the amount of the fund. The purposes for which the revolving cash fund shall be available shall include the purposes specified in Section 45167. Three certified copies of the resolution shall be transmitted to the county superintendent of schools. If he approves the establishment of the fund, the county superintendent shall endorse his consent on the resolution and return one copy to the governing body of the school district, and transmit one copy to the county auditor.

(b) The maximum amount allowed for revolving cash funds established pursuant to subdivision (a) shall be the lesser of:

(1) Two percent of the district's estimated expenditures for the current fiscal year, or

(2) A dollar amount limit of seventy-five thousand dollars (\$75,000) for any elementary school or high school district and one hundred fifty thousand dollars (\$150,000) for any unified school district for fiscal year 1990–91. The dollar amount limit for each school district shall, through the 2012–13 fiscal year, be increased annually by the percentage increase in the district's revenue limit established by Section 42238, as that section read on January 1, 2013. The dollar amount limit for each school district shall thereafter be increased annually by the percentage increase in the school district's local control funding formula allocation established pursuant to Section 42238.02, as implemented pursuant to Section 42238.03.

**SEC. 65.** Section 46200 of the Education Code is amended to read:

**46200.** For a school district that received an apportionment pursuant to subdivision (a) of this section, as it read on January 1, 2013, and that offers less than 180 days of instruction or, in multitrack year-round schools, fewer

than the number of days required in subdivision (a) of this section, as it read on January 1, 2013, for multitrack year-round schools, in the 2013–14 fiscal year, or any fiscal year thereafter, the Superintendent shall withhold from the school district's local control funding formula grant apportionment pursuant to Section 42238.02, as implemented by Section 42238.03, for the average daily attendance of each affected grade level the sum of 0.0056 multiplied by the apportionment received pursuant to subdivision (a) of this section, as it read on January 1, 2013, for each day less than 180, or, in multitrack year-round schools, for each day less than the number of days required in subdivision (a) for year-round schools that the school district offered.

**SEC. 66.** Section 46201 of the Education Code is amended to read:

**46201.** (a) For each school district that received an apportionment pursuant to subdivision (a) of this section, as it read on January 1, 2013, and that reduces the amount of instructional time offered below the minimum amounts specified in subdivision (b), the Superintendent shall withhold from the school district's local control funding formula grant apportionment pursuant to Section 42238.02, as implemented by Section 42238.03, for the average daily attendance of each affected grade level, the sum of the apportionment received pursuant to subdivision (a) of this section, as it read on January 1, 2013, multiplied by the percentage of the minimum offered minutes at that grade level that the school district failed to offer.

(b) Commencing with the 2013–14 fiscal year:

- (1) Thirty-six thousand minutes in kindergarten.
- (2) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.
- (3) Fifty-four thousand minutes in grades 4 to 8, inclusive.
- (4) Sixty-four thousand eight hundred minutes in grades 9 to 12, inclusive.

**SEC. 67.** Section 46201.2 of the Education Code is amended to read:

**46201.2.** (a) Commencing with the 2009–10 school year and continuing through the 2012–13 school year, a school district, county office of education, or charter school may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in Sections 41420, 46200, 46200.5, 46201, 46201.5, 46202, and 47612.5, as those sections read on January 1, 2013. A school district, county office of education, or charter school shall receive revenue limit funding based on the adjustments prescribed pursuant to Section 42238.146, as it read on January 1, 2013, whether or not it reduces the number of schooldays or instructional minutes.

(b) For the 2013–14 and 2014–15 school years, a school district, county office of education, or charter school may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in Sections 41420, 46200, 46200.5, 46201, 46201.5, 46202, and 47612.5.

(c) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 68.** Section 46201.3 of the Education Code is repealed.

**SEC. 69.** Section 46202 of the Education Code is amended to read:

**46202.** If a school district that does not participate in the program set forth in Sections 46200 to 46206, inclusive, as those sections read on January 1, 2013, offers less instructional time in a fiscal year than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent shall withhold for that fiscal year, from the school district's local control funding formula grant apportionment pursuant to Section 42238.03, as implemented by Section 42238.03, for the average daily attendance of each affected grade level, the amount of that apportionment multiplied by the percentage of instructional minutes fixed in the 1982–83 school year, at that grade level, that the school district failed to offer.

**SEC. 70.** Section 46204 of the Education Code is repealed.

**SEC. 71.** Section 46207 is added to the Education Code, to read:

**46207.** (a) Notwithstanding Sections 46200 to 46205, inclusive, upon a determination that a school district equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, each school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall, for each fiscal year, offer, at a minimum, the following number of minutes of instruction:

- (1) To pupils in kindergarten, 36,000 minutes.
- (2) To pupils in grades 1 to 3, inclusive, 50,400 minutes.
- (3) To pupils in grades 4 to 8, inclusive, 54,000 minutes.
- (4) To pupils in grades 9 to 12, inclusive, 64,800 minutes.

(b) For a school district that has met its local control funding formula target that reduces the amount of instructional time offered below the minimum amounts specified in subdivision (a), the Superintendent shall withhold from the school district's local control funding formula apportionment for the average daily attendance of each affected grade level, the product of that apportionment multiplied by the percentage of the minimum offered minutes at that grade level that the school district failed to offer.

(c) Notwithstanding subdivision (a), for the 2013–14 and 2014–15 school years, a school district that equals or exceeds its computed local control funding formula target may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in this section.

**SEC. 72.** Section 46208 is added to the Education Code, to read:

**46208.** (a) Notwithstanding Sections 46200 to 46205, inclusive, upon a determination that a school district equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, each school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall offer 180 days or more of instruction per school year. A school operating a multitrack year-round school shall be deemed to be in compliance with the 180-day requirement if it certifies to the Superintendent that it is a multitrack year-round school and maintains its school for a minimum of 163 schooldays.

(b) Notwithstanding subdivision (a), for the 2013–14 and 2014–15 school years, a school district that equals or exceeds its computed local control funding formula target may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in this section.

**SEC. 73.** Section 47604.32 of the Education Code is amended to read:

**47604.32.** Each chartering authority, in addition to any other duties imposed by this part, shall do all of the following with respect to each charter school under its authority:

- (a) Identify at least one staff member as a contact person for the charter school.
- (b) Visit each charter school at least annually.
- (c) Ensure that each charter school under its authority complies with all reports required of charter schools by law, including the annual update required pursuant to Section 47606.5.
- (d) Monitor the fiscal condition of each charter school under its authority.
- (e) Provide timely notification to the department if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
  - (1) A renewal of the charter is granted or denied.
  - (2) The charter is revoked.
  - (3) The charter school will cease operation for any reason.
- (f) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.



**SEC. 74.** Section 47604.33 of the Education Code is amended to read:

**47604.33.** (a) Each charter school shall annually prepare and submit the following reports to its chartering authority and the county superintendent of schools, or only to the county superintendent of schools if the county board of education is the chartering authority:

(1) On or before July 1, a preliminary budget. For a charter school in its first year of operation, the information submitted pursuant to subdivision (g) of Section 47605 satisfies this requirement.

(2) On or before July 1, an annual update required pursuant to Section 47606.5.

(3) On or before December 15, an interim financial report. This report shall reflect changes through October 31.

(4) On or before March 15, a second interim financial report. This report shall reflect changes through January 31.

(5) On or before September 15, a final unaudited report for the full prior year.

(b) The chartering authority shall use any financial information it obtains from the charter school, including, but not limited to, the reports required by this section, to assess the fiscal condition of the charter school pursuant to subdivision (d) of Section 47604.32.

(c) The cost of performing the duties required by this section shall be funded with supervisorial oversight fees collected pursuant to Section 47613.

**SEC. 75.** Section 47604.5 of the Education Code is amended to read:

**47604.5.** The state board, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent, take appropriate action, including, but not limited to, revocation of the school's charter, when the state board finds any of the following:

(a) Gross financial mismanagement that jeopardizes the financial stability of the charter school.

(b) Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school.

(c) Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils.

(d) Failure to improve pupil outcomes across multiple state and school priorities identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (d) of Section 47605.6.

**SEC. 76.** Section 47605 of the Education Code is amended to read:

**47605.** (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. A charter school may propose to operate at multiple sites within the school district, as long as each location is identified in the charter school petition. The petition may be submitted to the governing board of the school district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (b) of Section 41365 may be circulated by one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition is signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:

(A) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.

(B) The site is needed for temporary use during a construction or expansion project.

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that is not served by the school district of the governing board considering the petition, unless the petition proposes to serve pupils in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) A description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their parents, legal guardians, and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require any employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The description of the facilities to be used by the charter school shall specify where the school intends to locate. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the governing board of the school district shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as it read before July 19, 2006.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the applicable county superintendent of schools, the department, and the state board.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering agency, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b) and shall define "reasonably comprehensive" as used in paragraph (5) of subdivision (b) in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall, thereafter, be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the department and the state board.

(k) (1) The state board may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the state board to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local educational agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the state board.

(3) A charter school that is granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, before expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the state board for renewal of its charter.

(l) Teachers in charter schools shall hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and are subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

**SEC. 77.** Section 47605.6 of the Education Code is amended to read:

**47605.6.** (a) (1) In addition to the authority provided by Section 47605.5, a county board of education may also approve a petition for the operation of a charter school that operates at one or more sites within the geographic boundaries of the county and that provides instructional services that are not generally provided by a county office of education. A county board of education may approve a countywide charter only if it finds, in addition to the other requirements of this section, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county. A petition for the establishment of a countywide charter school pursuant to this subdivision may be circulated throughout the county by any one or more persons seeking to establish the charter school. The petition may be submitted to the county board of education for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or guardians of pupils residing within the county that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a school pursuant to this section.

(B) The petition is signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation and each of the school districts where the charter school petitioner proposes to operate a facility has received at least 30 days' notice of the petitioner's intent to operate a school pursuant to this section.

(2) An existing public school may not be converted to a charter school in accordance with this section.

(3) After receiving approval of its petition, a charter school that proposes to establish operations at additional sites within the geographic boundaries of the county board of education shall notify the school districts where those sites will be located. The charter school shall also request a material revision of its charter by the county board of education that approved its charter and the county board of education shall consider whether to approve those additional locations at an open, public meeting, held no sooner than 30 days following notification of the school districts where the sites will be located. If approved, the location of the approved sites shall be a material revision of the school's approved charter.

(4) A petition shall include a prominent statement indicating that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(b) No later than 60 days after receiving a petition, in accordance with subdivision (a), the county board of education shall hold a public hearing on the provisions of the charter, at which time the county board of education shall consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. Following review of the petition and the public hearing, the county board of education shall either grant or deny the charter within 90 days of receipt of the petition. However, this date may be extended by an additional 30 days if both parties agree to the extension. A county board of education may impose any additional requirements beyond those required by this section that it considers necessary for the sound operation of a countywide charter school. A county board of education may grant a charter for the operation of a school under this part only if the board is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605. The county board of education shall deny a petition for the establishment of a charter school if the board finds one or more of the following:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) A description of the educational program of the school, designed, among other things, to identify those pupils whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) A description, for the charter school, of annual goals, for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will enroll high school pupils, a description of the manner in which the charter school will inform parents regarding the transferability of courses to other public high schools. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered to be transferable to other public high schools.

(iv) If the proposed charter school will enroll high school pupils, information as to the manner in which the charter school will inform parents as to whether each individual course offered by the charter school meets college entrance requirements. Courses approved by the University of California or the California State University

as satisfying their prerequisites for admission may be considered as meeting college entrance requirements for purposes of this clause.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and aptitudes specified as goals in the school's educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The location of each charter school facility that the petitioner proposes to operate.

(E) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(F) The qualifications to be met by individuals to be employed by the school.

(G) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(H) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(I) The manner in which annual, independent, financial audits shall be conducted, in accordance with regulations established by the state board, and the manner in which audit exceptions and deficiencies shall be resolved.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The procedures to be followed by the charter school and the county board of education to resolve disputes relating to provisions of the charter.

(M) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(N) Admission requirements of the charter school, if applicable.

(O) The public school attendance alternatives for pupils residing within the county who choose not to attend the charter school.

(P) A description of the rights of an employee of the county office of education, upon leaving the employment of the county office of education, to be employed by the charter school, and a description of any rights of return to the county office of education that an employee may have upon leaving the employ of the charter school.

(Q) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of public records.

(6) Any other basis that the county board of education finds justifies the denial of the petition.

(c) A county board of education that approves a petition for the operation of a countywide charter may, as a condition of charter approval, enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report to the county board of education on the operations of the charter school. The county board of education may prescribe the aspects of the charter school's operations to be monitored by the

third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the county board of education.

(d) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the school's educational programs.

(e) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, gender identity, gender expression, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) If the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the county except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the county board of education shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(f) The county board of education shall not require any employee of the county or a school district to be employed in a charter school.

(g) The county board of education shall not require any pupil enrolled in a county program to attend a charter school.

(h) The county board of education shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be used by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school, any school district where the charter school may operate, and upon the county board of education. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(i) In reviewing petitions for the establishment of charter schools within the county, the county board of education shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the department under Section 54032, as it read before July 19, 2006.

(j) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the school districts within the county, the Superintendent, and to the state board.

(k) If a county board of education denies a petition, the petitioner may not elect to submit the petition for the establishment of the charter school to the state board.

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to the county office of education, the Controller, and the department by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.



**SEC. 78.** Section 47606.5 is added to the Education Code, to read:

**47606.5.** (a) On or before July 1, 2015, and each year thereafter, a charter school shall update the goals and annual actions to achieve those goals identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6. The annual update shall be developed using the template adopted pursuant to Section 52064 and shall include all of the following:

(1) A review of the progress toward the goals included in the charter, an assessment of the effectiveness of the specific actions described in the charter toward achieving the goals, and a description of changes to the specific actions the charter school will make as a result of the review and assessment.

(2) A listing and description of the expenditures for the fiscal year implementing the specific actions included in the charter as a result of the reviews and assessment required by paragraph (1).

(b) The expenditures identified in subdivision (a) shall be classified using the California School Accounting Manual pursuant to Section 41010.

(c) For purposes of the review required by subdivision (a), a governing body of a charter school may consider qualitative information, including, but not limited to, findings that result from school quality reviews conducted pursuant to subparagraph (J) or paragraph (4) of subdivision (a) of Section 52052 or any other reviews.

(d) To the extent practicable, data reported pursuant to this section shall be reported in a manner consistent with how information is reported on a school accountability report card.

(e) The charter school shall consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing the annual update.

**SEC. 79.** Section 47607.3 is added to the Education Code, to read:

**47607.3.** (a) If a charter school fails to improve outcomes for three or more pupil subgroups identified pursuant to Section 52052, or, if the charter school has less than three pupil subgroups, all of the charter school's pupil subgroups, in regard to one or more state or school priority identified in the charter pursuant to subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605 or subparagraph (A) of paragraph (5) of subdivision (b) of Section 47605.6, in three out of four consecutive school years, all of the following shall apply:

(1) Using an evaluation rubric adopted by the state board pursuant to Section 52064.5, the chartering authority shall provide technical assistance to the charter school.

(2) The Superintendent may assign, at the request of the chartering authority and with the approval of the state board, the California Collaborative for Educational Excellence to provide advice and assistance to the charter school pursuant to Section 52074.

(b) A chartering authority shall consider for revocation any charter school to which the California Collaborative for Educational Excellence has provided advice and assistance pursuant to subdivision (a) and about which it has made either of the following findings, which shall be submitted to the chartering authority:

(1) That the charter school has failed, or is unable, to implement the recommendations of the California Collaborative for Educational Excellence.

(2) That the inadequate performance of the charter school, based upon an evaluation rubric adopted pursuant to Section 52064.5, is either so persistent or so acute as to require revocation of the charter.

(c) The chartering authority shall consider increases in pupil academic achievement for all pupil subgroups served by the charter school as the most important factor in determining whether to revoke the charter.

(d) A chartering authority shall comply with the hearing process described in subdivision (e) of Section 47607 in revoking a charter. A charter school may not appeal a revocation of a charter made pursuant to this section.

**SEC. 80.** Section 47612.7 of the Education Code is repealed.

**SEC. 81.** Section 47613 of the Education Code is amended to read:

**47613.** (a) Except as set forth in subdivision (b), a chartering authority may charge for the actual costs of supervisorial oversight of a charter school not to exceed 1 percent of the revenue of the charter school.

(b) A chartering authority may charge for the actual costs of supervisorial oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering authority.

(c) A local agency that is given the responsibility for supervisorial oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the actual costs of supervisorial oversight, and administrative costs necessary to secure charter school funding. A charter school that is charged for costs under this subdivision may not be charged pursuant to subdivision (a) or (b).

(d) This section does not prevent the charter school from separately purchasing administrative or other services from the chartering authority or any other source.

(e) For purposes of this section, a chartering authority means a school district, county board of education, or the state board, that granted the charter to the charter school.

(f) For purposes of this section, "revenue of the charter school" means the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of Section 47632.

(g) For purposes of this section, "costs of supervisorial oversight" includes, but is not limited to, costs incurred pursuant to Section 47607.3.

**SEC. 82.** Section 47631 of the Education Code is amended to read:

**47631.** (a) Article 3 (commencing with Section 47636) shall not apply to a charter granted pursuant to Section 47605.5.

(b) A county-sponsored charter school shall receive the average daily attendance rate calculated pursuant to paragraph (1) of subdivision (c) of Section 2574 for enrolled pupils who are identified as any of the following:

(1) Probation-referred pursuant to Section 300, 601, 602, or 654 of the Welfare and Institutions Code.

(2) On probation or parole and not attending a school.

(3) Expelled for any of the reasons specified in subdivision (a) or (c) of Section 48915.

(c) A county-sponsored charter school shall be funded pursuant to the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, for all pupils except for pupils funded pursuant to subdivision (b).

**SEC. 83.** Section 47632 of the Education Code is amended to read:

**47632.** For purposes of this chapter, the following terms shall be defined as follows:

(a) "General-purpose entitlement" means an amount computed by the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03.

(b) "Economic impact aid-eligible pupils" means those pupils that are included in the economic impact aid-eligible pupil count pursuant to Section 54023. For purposes of applying Section 54023 to charter schools, "economically disadvantaged pupils" means the pupils described in paragraph (2) of subdivision (a) of Section 54026.

(c) "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's local control funding formula, pursuant to Section 42238.02, as implemented by Section 42238.03.

(d) "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.

(e) "Educationally disadvantaged pupils" means those pupils who meet federal eligibility criteria for free and reduced-price meals as specified in Section 49531, as that section read on January 1, 2013, except in regard to meals in family day care homes.

(f) "Operational funding" means all funding except funding for capital outlay.

(g) "School district of a similar type" means a school district that is serving similar grade levels.

(h) "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

(i) "Sponsoring local educational agency" means the following:

(1) If a charter school is granted by a school district, the sponsoring local educational agency is the school district.

(2) If a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.

(3) If a charter is granted by the state board after having been previously denied by a local educational agency, the sponsoring local educational agency means the local educational agency designated by the state board pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.

(4) For pupils attending county-sponsored charter schools who are eligible to attend those schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local educational agency means the pupils' school district of residence.

(5) For pupils attending countywide charter schools pursuant to Section 47605.6 who reside in a basic aid school district, the sponsoring local educational agency means the school district of residence of the pupil. For purposes of this paragraph, "basic aid school district" means a school district that does not receive an apportionment of state funds as described in subdivision (o) of Section 42238.02.

**SEC. 84.** Section 47632.5 of the Education Code is repealed.

**SEC. 85.** Section 47635 of the Education Code is amended to read:

**47635.** (a) A sponsoring local educational agency shall annually transfer to each of its charter schools funding in lieu of property taxes equal to the lesser of the following two amounts:

(1) The average amount of property taxes per unit of average daily attendance, including average daily attendance attributable to charter schools, received by the local educational agency, multiplied by the charter school's average daily attendance.

(2) The statewide average local control funding formula grant funding computed pursuant to subdivision (d) of Section 42238.02, per unit of average daily attendance received by school districts, as determined by the department, multiplied by the charter school's average daily attendance in each of the four corresponding grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and grades 9 to 12, inclusive.

(3) Notwithstanding paragraph (2), until the Superintendent determines that a charter school is funded pursuant to Section 42238.02 in the prior fiscal year, the Superintendent shall apportion funding per unit of average daily attendance pursuant to this article. The base grant for purposes of paragraph (2) shall be the sum of the entitlements for the charter school in the specified fiscal year as computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 42238.03 and paragraph (3) of subdivision (b) of Section 42238.03, multiplied by the ratio of local control funding formula base grant funding computed pursuant to subdivision (d) of Section 42238.02 to the local control funding formula amount for the fiscal year computed pursuant to Section 42238.02.

(b) The sponsoring local educational agency shall transfer funding in lieu of property taxes to the charter school in monthly installments, by no later than the 15th of each month.

(1) For the months of August to February, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes received by the sponsoring local educational agency during the preceding fiscal year, as reported to the Superintendent for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to the charter school the charter school's estimated annual entitlement to funding in lieu of property taxes as follows:

(A) Six percent in August.

(B) Twelve percent in September.

(C) Eight percent each month in October, November, December, January, and February.

(2) For the months of March to June, inclusive, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the fiscal year, as reported to the Superintendent for purposes of the first principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to one-sixth of the difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraph (1). An additional one-sixth of this difference shall be included in the amount transferred in the month of March.

(3) For the month of July, a charter school's funding in lieu of property taxes shall be computed based on the amount of property taxes estimated to be received by the sponsoring local educational agency during the prior fiscal year, as reported to the Superintendent for purposes of the second principal apportionment. A sponsoring local educational agency shall transfer to each of its charter schools an amount equal to the remaining difference between the school's estimated annual entitlement to funding in lieu of property taxes and the amounts provided pursuant to paragraphs (1) and (2).

(4) Final adjustments to the amount of funding in lieu of property taxes allocated to a charter school shall be made in February, in conjunction with the final reconciliation of annual apportionments to schools.

(5) Subdivision (a) and paragraphs (1) to (4), inclusive, do not apply for pupils who reside in, and are otherwise eligible to attend a school in, a basic aid school district, but who attend a charter school in a nonbasic aid school district. With regard to these pupils, the sponsoring basic aid school district shall transfer to the charter school an amount of funds equivalent to the local control funding formula grant pursuant to Section 42238.02, as implemented by Section 42238.03, earned through average daily attendance by the charter school for each pupil's attendance, not to exceed the average property tax share per unit of average daily attendance for pupils residing and attending in the basic aid school district. The transfer of funds shall be made in not fewer than two installments at the request of the charter school, the first occurring not later than February 1 and the second not later than June 1 of each school year. Payments shall reflect the average daily attendance certified for the time periods of the first and second principal apportionments, respectively. The Superintendent may not apportion any funds for the attendance of pupils described in this subdivision unless the amount transferred by the basic aid district is less than the local control funding formula grant pursuant to Section 42238.02, as implemented by Section 42238.03, earned by the charter school, in which event the Superintendent shall apportion the difference to the charter school from state funds.

**SEC. 86.** Section 47636 of the Education Code is amended to read:

**47636.** (a) This chapter shall not prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

(1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.

(2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(4) Ad valorem property taxes received by a school district which exceed its local control funding formula entitlement pursuant to Section 42238.02, as implemented by Section 42238.03.

(5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution.

(b) This section shall become operative July 1, 2006.

**SEC. 87.** Section 47660 of the Education Code is amended to read:

**47660.** For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily attendance of a sponsoring local educational

agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

**SEC. 88.** Section 47663 of the Education Code is amended to read:

**47663.** (a) (1) For a pupil of a charter school sponsored by a basic aid school district who resides in, and is otherwise eligible to attend, a school district other than a basic aid school district, the Superintendent shall apportion to the sponsoring school district an amount equal to 70 percent of the local control funding formula base grant computed pursuant to subdivision (d) of Section 42238.02, per unit of average daily attendance that would have been apportioned to the school district that the pupil resides in and would otherwise have been eligible to attend.

(2) Notwithstanding paragraph (1), until the Superintendent determines that the school district the pupil resides in, and would otherwise have been eligible to attend, is funded pursuant to Section 42238.02 in the prior fiscal year, the Superintendent shall apportion, for average daily attendance pursuant to this article, 70 percent of the sum of the entitlements for the school district that the pupil resides in, and would otherwise have been eligible to attend, for the specified fiscal year as computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 42238.03 and paragraph (3) of subdivision (b) of Section 42238.03, divided by the average daily attendance for that fiscal year and then multiplied by the ratio of local control funding formula base grant funding computed pursuant to subdivision (d) of Section 42238.02 to the local control funding formula amount for the fiscal year computed pursuant to Section 42238.02.

(b) A school district that loses basic aid status as a result of transferring property taxes to a charter school or schools pursuant to Section 47635 for pupils who reside in, and are otherwise eligible to attend, a school district other than the school district that sponsors the charter school, shall be eligible to receive a pro rata share of funding provided by subdivision (a), with the proration factor calculated as the ratio of the following:

(1) The amount of property taxes that the school district receives in excess of its total base grant per unit of average daily attendance calculated pursuant to Section 42238.02, as implemented by Section 42238.03, before any transfers made pursuant to Section 47635, except for transfers of in lieu of property taxes made for pupils who reside in, and would otherwise be eligible to attend, a school of the school district.

(2) The total amount of in lieu of property taxes transferred pursuant to Section 47635 to the charter school or schools that it sponsors, except for transfers of in lieu of property taxes made for pupils who reside in, and would otherwise be eligible to attend, a school of the school district.

(c) In no event shall the amount provided pursuant to this section exceed the amount of in lieu of property taxes transferred on behalf of charter school pupils who do not reside in the school district, less the proportionate amount of base grant state aid provided pursuant to Section 42238.02, as implemented by Section 42238.03, that is attributable to the charter school pupils who do not reside in the school district.

(d) The Superintendent shall not apportion funds for the attendance of a pupil in a charter school of a nonbasic aid school district who resides in, and is otherwise eligible to attend school in, a basic aid school district unless the pupil is subject to the exception set forth in paragraph (5) of subdivision (b) of Section 47635.

(e) For purposes of this section, "basic aid school district" means a school district that does not receive from the state, for any fiscal year in which the subdivision is applied, an apportionment of state funds as described in subdivision (o) of Section 42238.02.

**SEC. 89.** Section 47664 of the Education Code is repealed.

**SEC. 90.** Section 48310 of the Education Code is amended to read:

**48310.** (a) The average daily attendance for pupils admitted by a school district of choice pursuant to this article shall be credited to that school district pursuant to Section 46607. The attendance report for the school district of choice may include an identification of the school district of residence.

(b) Notwithstanding other provisions of law, state aid for categorical education programs for pupils admitted under this article shall be apportioned to the school district of choice.

(c) (1) For a school district of choice that is a basic aid school district, the apportionment of state funds for average daily attendance credited pursuant to this section shall be 70 percent of the district local control funding

formula base grant computed pursuant to subdivision (d) of Section 42238.02, as implemented by Section 42238.03, that would have been apportioned to the school district of residence.

(2) Notwithstanding paragraph (1), until the Superintendent determines that the school district of residence is funded pursuant to Section 42238.02 in the prior fiscal year, the Superintendent shall apportion, for average daily attendance pursuant to this article, 70 percent of the sum of the entitlements for the school district of residence for the specified fiscal year as computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 42238.03 and paragraph (3) of subdivision (b) of Section 42238.03, divided by the average daily attendance pursuant to this article for that fiscal year and then multiplied by the ratio of local control funding formula base grant funding computed pursuant to subdivision (d) of Section 42238.02 to the local control funding formula amount for the fiscal year computed pursuant to Section 42238.02.

(3) For purposes of this subdivision, the term "basic aid school district" means a school district that does not receive from the state, for a fiscal year in which this subdivision is applied, an apportionment of state funds as described in subdivision (o) of Section 42238.02.

(d) The average daily attendance of pupils admitted by a school district of choice pursuant to this article shall be credited to that school district for purposes of any determination under Article 2 (commencing with Section 17010) of Chapter 12 of Part 10 of Division 1 of Title 1 that uses an average daily attendance calculation.

**SEC. 91.** Section 48359.5 of the Education Code is amended to read:

**48359.5.** (a) For a school district of enrollment that is a basic aid school district, the apportionment of state funds for average daily attendance credited pursuant to this article shall be 70 percent of the school district local control funding formula base grant that would have been apportioned to the school district of residence pursuant to subdivision (d) of Section 42238.02. Apportionment of these funds shall begin in the second consecutive year of enrollment, and continue annually until the pupil graduates from, or is no longer enrolled in, the school district of enrollment.

(b) Notwithstanding subdivision (a), until the Superintendent determines that the school district of enrollment is funded pursuant to Section 42238.02 in the prior fiscal year, the Superintendent shall apportion, for average daily attendance pursuant to this article, 70 percent of the sum of the entitlements for the school district of enrollment for the specified fiscal year as computed pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 42238.03 and paragraph (3) of subdivision (b) of Section 42238.03, divided by the average daily attendance pursuant to this article for that fiscal year and then multiplied by the ratio of local control funding formula base grant funding computed pursuant to subdivision (d) of Section 42238.02 to the local control funding formula amount for the fiscal year computed pursuant to Section 42238.02.

(c) For purposes of this section, "basic aid school district" means a school district that does not receive an apportionment of state funds as described in subdivision (o) of Section 42238.02 for a fiscal year in which this section may apply.

**SEC. 92.** Section 49085 of the Education Code is amended to read:

**49085.** (a) The department and the State Department of Social Services shall develop and enter into a memorandum of understanding that shall, at a minimum, require the State Department of Social Services, at least once per week, to share with the department both of the following:

(1) Disaggregated information on children and youth in foster care sufficient for the department to identify pupils in foster care.

(2) Disaggregated data on children and youth in foster care that is helpful to county offices of education and other local educational agencies responsible for ensuring that pupils in foster care received appropriate educational supports and services.

(b) To the extent allowable under federal law, the department shall regularly identify pupils in foster care and designate those pupils in the California Longitudinal Pupil Achievement Data System or any future data system used by the department to collect disaggregated pupil outcome data.

(c) To the extent allowable under federal law, the Superintendent, on or before February 15 of each even-numbered year, shall report to the Legislature and the Governor on the educational outcomes for pupils in foster

care at both the individual schoolsite level and school district level. The report shall include, but is not limited to, all of the following:

(1) Individual schoolsite level and school district level educational outcome data for each local educational agency that enrolls at least 15 pupils in foster care, each county in which at least 15 pupils in foster care attend school, and for the entire state.

(2) The number of pupils in foster care statewide and by each local educational agency.

(3) The academic achievement of pupils in foster care.

(4) The incidence of suspension and expulsion for pupils in foster care.

(5) Truancy rates, attendance rates, and dropout rates for pupils in foster care.

(d) To the extent allowable under federal law, the department, at least once per week, shall do all of the following:

(1) Inform school districts and charter schools of any pupils enrolled in those school districts or charter schools who are in foster care.

(2) Inform county offices of education of any pupils enrolled in schools in the county who are in foster care.

(3) Provide schools districts, county office of education, and charter schools disaggregated data helpful to ensuring pupils in foster care receive appropriate educational supports and services.

(e) For purposes of this section "pupil in foster care" means a pupil who is under the jurisdiction of the juvenile court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code.

**SEC. 93.** Section 49536 of the Education Code is amended to read:

**49536.** (a) The department shall, before July 1 of each year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast and lunch program and shall be made commencing on July 1 of each year. The adjustment shall be the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

(b) In giving effect to the cost-of-living provisions of this section, the department shall use the same month for computation of the percentage change in the cost of living after July 1, 1975. The same month shall be used annually thereafter. The product of a percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of a cost-of-living change currently in effect pursuant to the provisions of this section.

(c) For the 1990-91 fiscal year to the 2012-13 fiscal year, inclusive, the cost-of-living adjustment shall be equal to the percentage change determined pursuant to subdivision (b) of Section 42238.1, as that section read on January 1, 2013. Commencing with the 2013-14 fiscal year, the cost-of-living adjustment shall be equal to the percentage determined pursuant to paragraph (2) of subdivision (d) of Section 42238.02.

**SEC. 94.** Section 52051 of the Education Code is repealed.

**SEC. 95.** Section 52052 of the Education Code is amended to read:

**52052.** (a) (1) The Superintendent, with approval of the state board, shall develop an Academic Performance Index (API), to measure the performance of schools and school districts, especially the academic performance of pupils.

(2) A school or school district shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school or school district, including:

(A) Ethnic subgroups.

(B) Socioeconomically disadvantaged pupils.

(C) English learners.

(D) Pupils with disabilities.

(E) Foster youth.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that consists of at least 30 pupils, each of whom has a valid test score.

(B) Notwithstanding subparagraph (A), for a subgroup of pupils who are foster youth, a numerically significant pupil subgroup is one that consists of at least 15 pupils.

(C) For a school or school district with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant pupil subgroups shall be defined by the Superintendent, with approval by the state board.

(4) (A) The API shall consist of a variety of indicators currently reported to the department, including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(B) The Superintendent, with the approval of the state board, may also incorporate into the API the rates at which pupils successfully promote from one grade to the next in middle school and high school, and successfully matriculate from middle school to high school.

(C) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) Four-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be three school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (ii).

(ii) The number of pupils entering grade 9 for the first time in the school year three school years before the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was three school years before the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was three school years before the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(iii) Five-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be four school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (iv).

(iv) The number of pupils entering grade 9 for the first time in the school year four years before the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was four school years before the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was four years before the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(v) Six-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be five school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (vi).

(vi) The number of pupils entering grade 9 for the first time in the school year five years before the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was five school years before the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was five years before the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(D) The inclusion of five- and six-year graduation rates for pupils in secondary schools shall meet the following requirements:

(i) Schools shall be granted one-half the credit in their API scores for graduating pupils in five years that they are granted for graduating pupils in four years.



(ii) Schools and school districts shall be granted one-quarter the credit in their API scores for graduating pupils in six years that they are granted for graduating pupils in four years.

(iii) Notwithstanding clauses (i) and (ii), schools and school districts shall be granted full credit in their API scores for graduating in five or six years a pupil with disabilities who graduates in accordance with his or her individualized education program.

(E) The pupil data collected for the API that comes from the achievement test administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English learners, socioeconomic status, gender, and ethnic group. Only the test scores of pupils who were counted as part of the enrollment in the annual data collection of the California Basic Educational Data System for the current fiscal year and who were continuously enrolled during that year may be included in the test result reports in the API score of the school.

(F) (i) Commencing with the baseline API calculation in 2016, and for each year thereafter, results of the achievement test and other tests specified in subdivision (b) shall constitute no more than 60 percent of the value of the index for secondary schools.

(ii) In addition to the elements required by this paragraph, the Superintendent, with approval of the state board, may incorporate into the index for secondary schools valid, reliable, and stable measures of pupil preparedness for postsecondary education and career.

(G) Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index for primary schools and middle schools.

(H) It is the intent of the Legislature that the state's system of public school accountability be more closely aligned with both the public's expectations for public education and the workforce needs of the state's economy. It is therefore necessary that the accountability system evolve beyond its narrow focus on pupil test scores to encompass other valuable information about school performance, including, but not limited to, pupil preparedness for college and career, as well as the high school graduation rates already required by law.

(I) The Superintendent shall annually determine the accuracy of the graduation rate data. Notwithstanding any other law, graduation rates for pupils in dropout recovery high schools shall not be included in the API. For purposes of this subparagraph, "dropout recovery high school" means a high school in which 50 percent or more of its pupils have been designated as dropouts pursuant to the exit/withdrawal codes developed by the department or left a school and were not otherwise enrolled in a school for a period of at least 180 days.

(J) To complement the API, the Superintendent, with the approval of the state board, may develop and implement a program of school quality review that features locally convened panels to visit schools, observe teachers, interview pupils, and examine pupil work, if an appropriation for this purpose is made in the annual Budget Act.

(K) The Superintendent shall annually provide to local educational agencies and the public a transparent and understandable explanation of the individual components of the API and their relative values within the API.

(L) An additional element chosen by the Superintendent and the state board for inclusion in the API pursuant to this paragraph shall not be incorporated into the API until at least one full school year after the state board's decision to include the element into the API.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The standards-based achievement tests provided for in Section 60642.5.

(2) The high school exit examination.

(c) Based on the API, the Superintendent shall develop, and the state board shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the state board pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between the actual API score of a school and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the state board may set differential growth targets based on grade level of

instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant pupil subgroups, as defined in subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the state board, the Superintendent shall recommend, and the state board shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target.

(e) (1) A school or school district with 11 to 99 pupils with valid test scores shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school or school district annually shall receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the performance of the school or school district for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the API score of the school or school district are not representative of the pupil population at the school or school district.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school or school district has fewer than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be calculated over more than one annual administration of the tests administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, consistent with regulations adopted by the state board.

(f) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(g) The Superintendent, with the approval of the state board, shall develop an alternative accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools pursuant to Section 56366, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. Schools in the alternative accountability system may receive an API score, but shall not be included in the API rankings.

(h) For purposes of this section, county offices of education shall be considered school districts.

**SEC. 96.** Section 52052.1 of the Education Code is amended to read:

**52052.1.** (a) Beginning July 1, 2011, in addition to the test scores specified in subparagraph (B) of paragraph (4) of subdivision (a) of Section 52052, the Academic Performance Index (API) for a school or school district shall do all of the following:

(1) Include the test scores and other accountability data of enrolled pupils who were referred by the school or school district of residence to an alternative education program, including community, community day, and continuation high schools and independent study, and be calculated by assigning all accountability data on pupils in alternative education programs, including community, community day, and continuation high schools and independent study, to the school and school district of residence to ensure that placement decisions are in the best interests of affected pupils. If a pupil is referred to an alternative education program by a juvenile court judge or other correctional or judicial official, or if the pupil is expelled pursuant to subdivision (a) or (c) of Section 48915, the test scores of that pupil shall remain with the alternative education program and with the school district or county office of education serving that pupil. This section does not prohibit the alternative education program from counting the test scores of those pupils served in their alternative education program. It is the intent of the Legislature that these alternative education programs remain accountable to the pupils they serve.

(2) Exclude the test scores or other data of those pupils exempt pursuant to federal statute or federal regulation.

(3) Include school and school district dropout rates for pupils who drop out of school while enrolled in grade 8 or 9. If reliable data is not available by July 1, 2011, the Superintendent, on or before that date, shall report to the Legislature the reasons for the delay and date he or she anticipates the specified dropout rates will be included in the API.

(b) The advisory committee established pursuant to Section 52052.5 shall recommend to the Superintendent and the state board all of the following:

(1) The length of time for which the accountability data on pupils in alternative education programs shall be assigned to the school and school district of residence pursuant to paragraph (1) of subdivision (a).

(2) Whether it is appropriate to assign accountability data to the school or the school district, pursuant to paragraph (1) of subdivision (a), if the pupil never attended the school of residence or has been absent for more than one year from the school district of residence due to placement in another school or school district or out of state.

(c) Before January 30, 2014, the advisory committee established pursuant to Section 52052.5 shall review, and recommend to the Superintendent and the state board any changes proposed for, the assignment of accountability data to the school district of residence pursuant to paragraph (1) of subdivision (a) based on the addition of Sections 2574, 2575, 42238.02, and 42238.03, and Article 4.5 (commencing with Section 52060) by the act adding this subdivision.

**SEC. 97.** Section 52052.2 of the Education Code is repealed.

**SEC. 98.** Section 52052.5 of the Education Code is amended to read:

**52052.5.** (a) The Superintendent shall establish a broadly representative and diverse advisory committee to advise the Superintendent and the state board on all appropriate matters relative to the creation of the Academic Performance Index. Members of the advisory committee shall serve without compensation for terms not to exceed two years. The department shall provide staff to the advisory panel.

(b) By July 1, 2005, the advisory committee established pursuant to this section shall make recommendations to the Superintendent on the appropriateness and feasibility of a methodology for generating a measurement of academic performance by using unique pupil identifiers for pupils in kindergarten and any of grades 1 to 12, inclusive, and annual academic achievement growth to provide a more accurate measure of a school's growth over time. If appropriate and feasible, the Superintendent, with the approval of the state board, shall thereafter implement this measurement of academic performance.

(c) By January 1, 2011, the Superintendent and the state board, in consultation with the advisory committee established pursuant to subdivision (a), shall make recommendations to the Legislature and the Governor on each of the following:

(1) Approaches to increasing the emphasis of science and mathematics in the calculation of the Academic Performance Index or any successor measure.

(2) Methods to incorporate into the Academic Performance Index, or into other aspects of the state's accountability system, a measure of the degree to which pupils graduate from high school with the skills and knowledge necessary to attain entry-level employment in business or industry, as set forth in subdivision (b) of Section 51228.

(3) Methods to incorporate into the Academic Performance Index, or into other aspects of the state's accountability system, a measure of the degree to which pupils graduate from high school with the skills and knowledge necessary to succeed in postsecondary education.

(d) By July 1, 2013, the Superintendent and the state board, in consultation with the advisory committee established pursuant to subdivision (a), shall make recommendations to the Legislature and the Governor on the establishment of a methodology for generating a measurement of group and individual academic performance growth by utilizing individual pupil results from a longitudinally valid achievement assessment system. These recommendations should also address any interactions between the Academic Performance Index, or any successor measure, and individual test scores from the state's tests, as well as implications for the

reauthorization of the state's assessment system. This paragraph shall not be construed to supersede the provisions of Chapter 273 of the Statutes of 2009.

**SEC. 99.** Article 3 (commencing with Section 52053) of Chapter 601 of Part 28 of Division 4 of Title 2 of the Education Code is repealed.

**SEC. 100.** Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code is repealed.

**SEC. 101.** Section 52055.750 of the Education Code is amended to read:

**52055.750.** (a) A school district or chartering authority that receives funding pursuant to this article shall agree to do all of the following for each funded school within its jurisdiction:

(1) Comply with the program requirements of this article and require that each funded schoolsite complete and meet the criteria of an academic review process that includes the elements of the school assistance and intervention team review process described in Section 52055.51, as that section read on January 1, 2013.

(2) Ensure that funded schools meet the requirements of this article.

(3) Ensure that each school administrator in a funded school is confirmed to have exemplary qualifications and experience by the end of the first full year of funding and in each year of funding thereafter. Those qualifications shall include the ability to support the success of all pupils by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community as well as the ability to advocate, nurture, and sustain a school culture and instructional program that is conducive to pupils learning and staff professional growth. The school district or chartering authority shall provide for high quality professional development for each administrator through leadership training, coaching, and mentoring and shall take all reasonable steps to maintain stable school leadership in schools that receive funding pursuant to this article. To the extent appropriate, the professional development shall be similar in quality and rigor to that provided pursuant to the Administrator Training Program under Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) Provide all fiscal and evaluation data requested by the Superintendent for initial approval, annual reviews, and reports.

(5) Comply with subdivisions (a) to (c), inclusive, of Section 52055.630, as that section read on January 1, 2013, and in the same manner consult with the exclusive representative of classified employees.

(6) Assist eligible schools in developing and carrying out a plan to implement the provisions of this article to ensure the school district's plan supports the work of the school.

(7) Agree to focus on conditions that improve instruction and achievement in funded schools.

(8) Express its full understanding that not meeting annual and final program and academic achievement requirements under this article will result in the termination of funding.

(9) Ensure that the funds received on behalf of funded schools are expended on that school, except that during the first partial year of funding school districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the school district.

(10) Use the uniform process recommended by the Superintendent pursuant to subdivision (d) of Section 52055.730 to ensure that the average teaching experience of the classroom teachers in funded schools is equal to or greater than the average teaching experience of classroom teachers in the school district as a whole.

(b) If not expressly prohibited by federal law, a school district or chartering authority on behalf of a funded school is exempt from requirements imposed on the use of state categorical or federal funds in the consolidated application, except those funds related to economic impact aid, if those funds are identified in the revised plan of Section 52055.755. Funded schools are exempt from all program requirements associated with funds in the consolidated application, except requirements regarding parent advisory committees, schoolsite councils, and special education. Funds provided under the economic aid program shall not be used to implement this program.

(c) Each funded school shall ensure that each teacher in a subject-specific classroom or teaching covered subjects participates in professional development that is made available by the school district or the schoolsite

councils, is developed in a collaborative process with interested parties, and is articulated in an improvement plan. For purposes of this article, professional development activities may include collaboration time for teachers to develop new instructional lessons or analyze pupil data, mentoring projects for new teachers, or extra support for teachers to improve practice. At a minimum, appropriate professional development for the site shall be part of a coherent plan that combines school activities within the school, including, but not limited to, lesson study or coteaching, and external learning opportunities that meet all of the following criteria:

- (1) Are related to the academic subjects taught.
- (2) Provide time to meet and work with other teachers.
- (3) Support instruction and pupil learning to improve instruction in a manner that is consistent with academic content standards.
- (4) Include an average of 40 hours per teacher per year.
- (d) At a minimum, professional development in a self-contained classroom shall include content regarding mathematics, science, English language arts, reading, and English language development. Professional development for teachers teaching subject specific courses shall include the specific subject and English language development. To the extent appropriate the professional development shall be similar in quality and rigor to the training provided under the Mathematics and Reading Professional Development Program in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65 of Division 14 of Title 3.
- (e) On or before the end of the first three years of full funding, funded schools shall do the following:
  - (1) Increase actual pupil attendance, as compared with monthly enrollment in the school.
  - (2) For secondary schools, increase graduation rates as described in Section 52055.640.

**SEC. 102.** Article 4 (commencing with **Section 52056**) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code is repealed.

**SEC. 103.** Article 4.5 (commencing with Section 52060) is added to Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, to read:

**Article 4.5. Local Control and Accountability Plans**

**52060.** (a) On or before July 1, 2014, the governing board of each school district shall adopt a local control and accountability plan using a template adopted by the state board.

(b) A local control and accountability plan adopted by a governing board of a school district shall be effective for a period of three years, and shall be updated on or before July 1 of each year.

(c) A local control and accountability plan adopted by a governing board of a school district shall include, for the school district and each school within the school district, a description of both of the following:

(1) The annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subdivision (d) and for any additional local priorities identified by the governing board of the school district. For purposes of this article, a subgroup of pupils identified pursuant to Section 52052 shall be a numerically significant pupil subgroup as specified in paragraphs (2) and (3) of subdivision (a) of Section 52052.

(2) The specific actions the school district will take during each year of the local control and accountability plan to achieve the goals identified in paragraph (1), including the enumeration of any specific actions necessary for that year to correct any deficiencies in regard to the state priorities listed in paragraph (1) of subdivision (d).

(d) All of the following are state priorities:

(1) The degree to which the teachers of the school district are appropriately assigned in accordance with Section 44258.9, and fully credentialed in the subject areas, and, for the pupils they are teaching, every pupil in the school district has sufficient access to the standards-aligned instructional materials as determined pursuant to Section 60119, and school facilities are maintained in good repair as specified in subdivision (d) of Section 17002.

(2) Implementation of the academic content and performance standards adopted by the state board, including how the programs and services will enable English learners to access the common core academic content standards adopted pursuant to Section 60605.8 and the English language development standards adopted pursuant to Section 60811.3 for purposes of gaining academic content knowledge and English language proficiency.

(3) Parental involvement, including efforts the school district makes to seek parent input in making decisions for the school district and each individual schoolsite, and including how the school district will promote parental participation in programs for unduplicated pupils and individuals with exceptional needs.

(4) Pupil achievement, as measured by all of the following, as applicable:

(A) Statewide assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 or any subsequent assessment, as certified by the state board.

(B) The Academic Performance Index, as described in Section 52052.

(C) The percentage of pupils who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, or career technical education sequences or clusters of courses that satisfy the requirements of subdivision (a) of Section 52302, subdivision (a) of Section 52372.5, or paragraph (2) of subdivision (e) of Section 54692, and align with state board-approved career technical education standards and frameworks.

(D) The percentage of English learner pupils who make progress toward English proficiency as measured by the California English Language Development Test or any subsequent assessment of English proficiency, as certified by the state board.

(E) The English learner reclassification rate.

(F) The percentage of pupils who have passed an advanced placement examination with a score of 3 or higher.

(G) The percentage of pupils who participate in, and demonstrate college preparedness pursuant to, the Early Assessment Program, as described in Chapter 6 (commencing with Section 99300) of Part 65 of Division 14 of Title 3, or any subsequent assessment of college preparedness.

(5) Pupil engagement, as measured by all of the following, as applicable:

(A) School attendance rates.

(B) Chronic absenteeism rates.

(C) Middle school dropout rates, as described in paragraph (3) of subdivision (a) of Section 52052.1.

(D) High school dropout rates.

(E) High school graduation rates.

(6) School climate, as measured by all of the following, as applicable:

(A) Pupil suspension rates.

(B) Pupil expulsion rates.

(C) Other local measures, including surveys of pupils, parents, and teachers on the sense of safety and school connectedness.

(7) The extent to which pupils have access to, and are enrolled in, a broad course of study that includes all of the subject areas described in Section 51210 and subdivisions (a) to (i), inclusive, of Section 51220, as applicable, including the programs and services developed and provided to unduplicated pupils and individuals with exceptional needs, and the program and services that are provided to benefit these pupils as a result of the funding received pursuant to Section 42238.02, as implemented by Section 42238.03.

(8) Pupil outcomes, if available, in the subject areas described in Section 51210 and subdivisions (a) to (i), inclusive, of Section 51220, as applicable.

(e) For purposes of the descriptions required by subdivision (c), a governing board of a school district may consider qualitative information, including, but not limited to, findings that result from school quality reviews

conducted pursuant to subparagraph (J) or paragraph (4) of subdivision (a) of Section 52052 or any other reviews.

(f) To the extent practicable, data reported in a local control and accountability plan shall be reported in a manner consistent with how information is reported on a school accountability report card.

(g) A governing board of a school district shall consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing a local control and accountability plan.

(h) A school district may identify local priorities, goals in regard to the local priorities, and the method for measuring the school district's progress toward achieving those goals.

**52061.** (a) On or before July 1, 2015, and each year thereafter, a school district shall update the local control and accountability plan. The annual update shall be developed using a template developed pursuant to Section 52064 and shall include all of the following:

(1) A review of any changes in the applicability of the goals described in paragraph (1) of subdivision (c) of Section 52060.

(2) A review of the progress toward the goals included in the existing local control and accountability plan, an assessment of the effectiveness of the specific actions described in the existing local control and accountability plan toward achieving the goals, and a description of changes to the specific actions the school district will make as a result of the review and assessment.

(3) A listing and description of the expenditures for the fiscal year implementing the specific actions included in the local control and accountability plan as a result of the reviews and assessment required by paragraphs (1) and (2).

(4) A listing and description of expenditures for the fiscal year that will serve the pupils to whom one or more of the definitions in Section 42238.01 apply and pupils redesignated as fluent English proficient.

(b) The expenditures identified in subdivision (a) shall be classified using the California School Accounting Manual pursuant to Section 41010.

**52062.** (a) Before the governing board of a school district considers the adoption of a local control and accountability plan or an annual update to the local control and accountability plan, all of the following shall occur:

(1) The superintendent of the school district shall present the local control and accountability plan or annual update to the local control and accountability plan to the parent advisory committee established pursuant to Section 52063 for review and comment. The superintendent of the school district shall respond, in writing, to comments received from the parent advisory committee.

(2) The superintendent of the school district shall present the local control and accountability plan or annual update to the local control and accountability plan to the English learner parent advisory committee established pursuant to Section 52063, if applicable, for review and comment. The superintendent of the school district shall respond, in writing, to comments received from the English learner parent advisory committee.

(3) The superintendent of the school district shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the local control and accountability plan or annual update to the local control and accountability plan, using the most efficient method of notification possible. This paragraph shall not require a school district to produce printed notices or to send notices by mail.

(4) The superintendent of the school district shall review school plans submitted pursuant to Section 64001 for schools within the school district and ensure that the specific actions included in the local control and accountability plan or annual update to the local control and accountability plan are consistent with strategies included in the school plans submitted pursuant to Section 64001.

(b) (1) A governing board of a school district shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the local control and accountability plan or annual update to the local control and accountability plan. The agenda for the public hearing shall be posted at least 72 hours before the public hearing and shall include the location where the local control and accountability plan or annual update to the local control

and accountability plan will be available for public inspection. The public hearing shall be held at the same meeting as the public hearing required by paragraph (1) of subdivision (a) of Section 42127.

(2) A governing board of a school district shall adopt a local control and accountability plan or annual update to the local control and accountability plan in a public meeting. This meeting shall be held after, but not on the same day as, the public hearing held pursuant to paragraph (1). This meeting shall be the same meeting as that during which the governing board of the school district adopts a budget pursuant to paragraph (2) of subdivision (a) of Section 42127.

(c) A governing board of a school district may adopt revisions to a local control and accountability plan during the period the local control and accountability plan is in effect. A governing board of a school district may only adopt a revision to a local control and accountability plan if it follows the process to adopt a local control and accountability plan pursuant to this section and the revisions are adopted in a public meeting.

**52063.** (a) (1) The governing board of a school district shall establish a parent advisory committee to provide advice to the governing board of the school district and the superintendent of the school district regarding the requirements of this article.

(2) A parent advisory committee shall include parents or legal guardians of pupils to whom one or more of the definitions in Section 42238.01 apply.

(3) This subdivision shall not require the governing board of the school district to establish a new parent advisory committee if the governing board of the school district already has established a parent advisory committee that meets the requirements of this subdivision, including any committee established to meet the requirements of the federal No Child Left Behind Act of 2001 (Public Law 107-110) pursuant to Section 1112 of Subpart 1 of Part A of Title I of that act.

(b) (1) The governing board of a school district shall establish an English learner parent advisory committee if the enrollment of the school district includes at least 15 percent English learners and the school district enrolls at least 50 pupils who are English learners.

(2) This subdivision shall not require the governing board of the school district to establish a new English learner parent advisory committee if the governing board of the school district already has established a committee that meets the requirements of this subdivision.

**52064.** (a) On or before March 31, 2014, the state board shall adopt templates for the following purposes:

(1) For use by school districts to meet the requirements of Sections 52060 to 52063, inclusive.

(2) For use by county superintendents of schools to meet the requirements of Sections 52066 to 52069, inclusive.

(3) For use by charter schools to meet the requirements of Section 47606.5.

(b) The templates developed by the state board shall allow a school district, county superintendent of schools, or charter school to complete a single local control and accountability plan to meet the requirements of this article and the requirements of the federal No Child Left Behind Act of 2001 related to local educational agency plans pursuant to Section 1112 of Subpart 1 of Part A of Title I of Public Law 107-110. The state board shall also take steps to minimize duplication of effort at the local level to the greatest extent possible.

(c) If possible, the templates identified in paragraph (2) of subdivision (a) for use by county superintendents of schools shall allow a county superintendent of schools to develop a single local control and accountability plan that would also satisfy the requirements of Section 48926.

(d) The state board shall adopt the template pursuant to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The state board may adopt emergency regulations for purposes of implementing this section.

(e) Revisions to a template or evaluation rubric shall be approved by the state board by January 31 before the fiscal year during which the template or evaluation rubric is to be used by a school district, county superintendent of schools, or charter school.

(f) The adoption of a template or evaluation rubric by the state board shall not create a requirement for a governing board of a school district, a county board of education, or a governing body of a charter school to



submit a local control and accountability plan to the state board, unless otherwise required by federal law. The Superintendent shall not require a local control and accountability plan to be submitted by a governing board of a school district or the governing body of a charter school to the state board. The state board may adopt a template or evaluation rubric that would authorize a school district or a charter school to submit to the state board only the sections of the local control and accountability plan required by federal law.

**52064.5.** (a) On or before October 1, 2015, the state board shall adopt evaluation rubrics for all of the following purposes:

(1) To assist a school district, county office of education, or charter school in evaluating its strengths, weaknesses, and areas that require improvement.

(2) To assist a county superintendent of schools in identifying school districts and charter schools in need of technical assistance pursuant to Section 52071 or 47607.3, as applicable, and the specific priorities upon which the technical assistance should be focused.

(3) To assist the Superintendent in identifying school districts for which intervention pursuant to Section 52072 is warranted.

(b) The evaluation rubrics shall reflect a holistic, multidimensional assessment of school district and individual schoolsite performance and shall include all of the state priorities described in subdivision (d) of Section 52060.

(c) As part of the evaluation rubrics, the state board shall adopt standards for school district and individual schoolsite performance and expectation for improvement in regard to each of the state priorities described in subdivision (d) of Section 52060.

**52065.** (a) The superintendent of a school district shall post on the Internet Web site of the school district any local control and accountability plan approved by the governing board of the school district, and any updates or revisions to a local control and accountability plan approved by the governing board of the school district.

(b) A county superintendent of schools shall do all of the following:

(1) Post on the Internet Web site of the county office of education any local control and accountability plan approved by the county board of education, and any updates or revisions to a local control and accountability plan approved by the county board of education.

(2) Post all local control and accountability plans submitted by school districts, or links to those plans, on the Internet Web site of the county office of education.

(3) Transmit or otherwise make available to the Superintendent all local control and accountability plans submitted to the county superintendent of schools by school districts and the local control and accountability plan approved by the county board of education.

(c) The Superintendent shall post links to all local control and accountability plans approved by the governing boards of school districts and county boards of education on the Internet Web site of the department.

**52066.** (a) On or before July 1, 2014, each county superintendent of schools shall develop, and present to the county board of education for adoption, a local control and accountability plan using a template adopted by the state board.

(b) A local control and accountability plan adopted by a county board of education shall be effective for a period of three years, and shall be updated on or before July 1 of each year.

(c) A local control and accountability plan adopted by a county board of education shall include, for each school or program operated by the county superintendent of schools, a description of both of the following:

(1) The annual goals, for all pupils and each subgroup of pupils identified pursuant to Section 52052, to be achieved for each of the state priorities identified in subdivision (d), as applicable to the pupils served, and for any additional local priorities identified by the county board of education.

(2) The specific actions the county superintendent of schools will take during each year of the local control and accountability plan to achieve the goals identified in paragraph (1), including the enumeration of any specific actions necessary for that year to correct any deficiencies in regard to the state priorities listed in paragraph (1) of subdivision (d).

(d) All of the following are state priorities:

(1) The degree to which the teachers in the schools or programs operated by the county superintendent of schools are appropriately assigned in accordance with Section 44258.9 and fully credentialed in the subject areas, and, for the pupils they are teaching, every pupil in the schools or programs operated by the county superintendent of schools has sufficient access to the standards-aligned instructional materials as determined pursuant to Section 60119, and school facilities are maintained in good repair as specified in subdivision (d) of Section 17002.

(2) Implementation of the academic content and performance standards adopted by the state board, including how the programs and services will enable English learners to access the common core academic content standards adopted pursuant to Section 60605.8 and the English language development standards adopted pursuant to Section 60811.3 for purposes of gaining academic content knowledge and English language proficiency.

(3) Parental involvement, including efforts the county superintendent of schools makes to seek parent input in making decisions for each individual schoolsite and program operated by a county superintendent of schools, and including how the county superintendent of schools will promote parental participation in programs for unduplicated pupils and individuals with exceptional needs.

(4) Pupil achievement, as measured by all of the following, as applicable:

(A) Statewide assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 or any subsequent assessment, as certified by the state board.

(B) The Academic Performance Index, as described in Section 52052.

(C) The percentage of pupils who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, or career technical education sequences or clusters of courses that satisfy the requirements of subdivision (a) of Section 52302, subdivision (a) of Section 52372.5, or paragraph (2) of subdivision (e) of Section 54692, and align with state board-approved career technical education standards and frameworks.

(D) The percentage of English learner pupils who make progress toward English proficiency as measured by the California English Language Development Test or any subsequent assessment of English proficiency, as certified by the state board.

(E) The English learner reclassification rate.

(F) The percentage of pupils who have passed an advanced placement examination with a score of 3 or higher.

(G) The percentage of pupils who participate in, and demonstrate college preparedness pursuant to, the Early Assessment Program, as described in Chapter 6 (commencing with Section 99300) of Part 65 of Division 14 of Title 3, or any subsequent assessment of college preparedness.

(5) Pupil engagement, as measured by all of the following, as applicable:

(A) School attendance rates.

(B) Chronic absenteeism rates.

(C) Middle school dropout rates, as described in paragraph (3) of subdivision (a) of Section 52052.1.

(D) High school dropout rates.

(E) High school graduation rates.

(6) School climate, as measured by all of the following, as applicable:

(A) Pupil suspension rates.

(B) Pupil expulsion rates.

(C) Other local measures, including surveys of pupils, parents, and teachers on the sense of safety and school connectedness.

(7) The extent to which pupils have access to, and are enrolled in, a broad course of study that includes all of the subject areas described in Section 51210 and subdivisions (a) to (i), inclusive, of Section 51220, as applicable, including the programs and services developed and provided to unduplicated pupils and individuals with exceptional needs, and the program and services that are provided to benefit these pupils as a result of the funding received pursuant to Section 42238.02, as implemented by Section 42238.03.

(8) Pupil outcomes, if available, in the subject areas described in Section 51210 and subdivisions (a) to (i), inclusive, of Section 51220, as applicable.

(9) How the county superintendent of schools will coordinate instruction of expelled pupils pursuant to Section 48926.

(10) How the county superintendent of schools will coordinate services for foster children, including, but not limited to, all of the following:

(A) Working with the county child welfare agency to minimize changes in school placement.

(B) Providing education-related information to the county child welfare agency to assist the county child welfare agency in the delivery of services to foster children, including, but not limited to, educational status and progress information that is required to be included in court reports.

(C) Responding to requests from the juvenile court for information and working with the juvenile court to ensure the delivery and coordination of necessary educational services.

(D) Establishing a mechanism for the efficient expeditious transfer of health and education records and the health and education passport.

(e) For purposes of the descriptions required by subdivision (c), a county board of education may consider qualitative information, including, but not limited to, findings that result from school quality reviews conducted pursuant to subparagraph (J) or paragraph (4) of subdivision (a) of Section 52052 or any other reviews.

(f) To the extent practicable, data reported in a local control and accountability plan shall be reported in a manner consistent with how information is reported on a school accountability report card.

(g) The county superintendent of schools shall consult with teachers, principals, administrators, other school personnel, parents, and pupils in developing a local control and accountability plan.

(h) A county board of education may identify local priorities, goals in regard to the local priorities, and the method for measuring the county office of education's progress toward achieving those goals.

**52067.** (a) On or before July 1, 2015, and each year thereafter, a county board of education shall update the local control and accountability plan. The annual update shall be developed using a template developed pursuant to Section 52064 and shall include all of the following:

(1) A review of any changes in the applicability of the goals described in paragraph (1) of subdivision (c) of Section 52066.

(2) A review of the progress toward the goals included in the existing local control and accountability plan, an assessment of the effectiveness of the specific actions described in the existing local control and accountability plan toward achieving the goals, and a description of changes to the specific actions the county office of education will make as a result of the review and assessment.

(3) A listing and description of the expenditures for the fiscal year implementing the specific actions included in the local control and accountability plan as a result of the reviews and assessment required by paragraphs (1) and (2).

(4) A listing and description of expenditures for the fiscal year that will serve the pupils to whom one or more of the definitions in Section 42238.01 apply and pupils redesignated as fluent English proficient.

(b) The expenditures identified in subdivision (a) shall be classified using the California School Accounting Manual pursuant to Section 41010.

**52068.** (a) Before the county board of education considers the adoption of a local control and accountability plan or an annual update to the local control and accountability plan, all of the following shall occur:

(1) The county superintendent of schools shall present the local control and accountability plan or annual update to the local control and accountability plan to a parent advisory committee established pursuant to Section 52069 for review and comment. The county superintendent of schools shall respond, in writing, to comments received from the parent advisory committee.

(2) The county superintendent of schools shall present the local control and accountability plan or annual update to the local control and accountability plan to the English learner parent advisory committee established pursuant to Section 52069, if applicable, for review and comment. The county superintendent of schools shall respond, in writing, to comments received from the English learner parent advisory committee.

(3) The county superintendent of schools shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the local control and accountability plan or annual update to the local control and accountability plan, using the most efficient method of notification possible. This paragraph shall not require a county superintendent of schools to produce printed notices or to send notices by mail.

(4) The county superintendent of schools shall review school plans submitted pursuant to Section 64001 for schools operated by the county superintendent of schools and ensure that the specific actions included in the local control and accountability plan or annual update to the local control and accountability plan are consistent with strategies included in the school plans submitted pursuant to Section 64001.

(b) (1) The county board of education shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the local control and accountability plan or annual update to the local control and accountability plan. The agenda for the public hearing shall be posted at least 72 hours before the public hearing and shall include the location where the local control and accountability plan or annual update to the local control and accountability plan, and any comments received pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), will be available for public inspection. The public hearing shall be held at the same meeting as the public hearing required by Section 1620.

(2) The county board of education shall adopt a local control and accountability plan or annual update to the local control and accountability plan in a public meeting. This meeting shall be held after, but not on the same day as, the public hearing held pursuant to paragraph (1). This meeting shall be the same meeting as that during which the county board of education adopts a budget pursuant to Section 1622.

(c) A county superintendent of schools may develop and present to a county board of education for adoption revisions to a local control and accountability plan during the period the local control and accountability plan is in effect. The county board of education may only adopt a revision to a local control and accountability plan if it follows the process to adopt a local control and accountability plan pursuant to this section and the revisions are adopted in a public meeting.

**52069.** (a) (1) A county superintendent of schools shall establish a parent advisory committee to provide advice to the county board of education and the county superintendent of schools regarding the requirements of this article.

(2) A parent advisory committee shall include parents or legal guardians of pupils to whom one or more of the definitions in Section 42238.01 apply.

(3) This subdivision shall not require the county superintendent of schools to establish a new parent advisory committee if the county superintendent of schools already has established a parent advisory committee that meets the requirements of this subdivision, including any committee established to meet the requirements of the federal No Child Left Behind Act of 2001 (Public Law 107-110) pursuant to Section 1112 of Subpart 1 of Part A of Title I of that act.

(b) (1) A county superintendent of schools shall establish an English learner parent advisory committee if the enrollment of the pupils in the schools and programs operated by the county superintendent of schools includes at least 15 percent English learners and the schools and programs operated by the county superintendent of schools enroll at least 50 pupils who are English learners.

(2) This subdivision shall not require the county superintendent of schools to establish a new English learner parent advisory committee if the county superintendent of schools already has established a committee that meets the requirements of this subdivision.

**52070.** (a) Not later than five days after adoption of a local control and accountability plan or annual update to a local control and accountability plan, the governing board of a school district shall file the local control and accountability plan or annual update to the local control and accountability plan with the county superintendent of schools.

(b) On or before August 15 of each year, the county superintendent of schools may seek clarification, in writing, from the governing board of a school district about the contents of the local control and accountability plan or annual update to the local control and accountability plan. Within 15 days the governing board of a school district shall respond, in writing, to requests for clarification.

(c) Within 15 days of receiving the response from the governing board of the school district, the county superintendent of schools may submit recommendations, in writing, for amendments to the local control and accountability plan or annual update to the local control and accountability plan. The governing board of a school district shall consider the recommendations submitted by the county superintendent of schools in a public meeting within 15 days of receiving the recommendations.

(d) The county superintendent of schools shall approve a local control and accountability plan or annual update to a local control and accountability plan on or before October 8, if he or she determines both of the following:

(1) The local control and accountability plan or annual update to the local control and accountability plan adheres to the template adopted by the state board pursuant to Section 52064.

(2) The budget for the applicable fiscal year adopted by the governing board of the school district includes expenditures sufficient to implement the specific actions and strategies included in the local control and accountability plan adopted by the governing board of the school district, based on the projections of the costs included in the plan.

(e) If a county superintendent of schools has jurisdiction over a single school district, the Superintendent shall designate a county superintendent of schools of an adjoining county to perform the duties specified in this section.

**52070.5.** (a) Not later than five days after adoption of a local control and accountability plan or annual update to a local control and accountability plan, the county board of education shall file the local control and accountability plan or annual update to the local control and accountability plan with the Superintendent.

(b) On or before August 15 of each year, the Superintendent may seek clarification, in writing, from the county board of education about the contents of the local control and accountability plan or annual update to the local control and accountability plan. Within 15 days the county board of education shall respond, in writing, to requests for clarification.

(c) Within 15 days of receiving the response from the county board of education, the Superintendent may submit recommendations, in writing, for amendments to the local control and accountability plan or annual update to the local control and accountability plan. The county board of education shall consider the recommendations submitted by the Superintendent in a public meeting within 15 days of receiving the recommendations.

(d) The Superintendent shall approve a local control and accountability plan or annual update to a local control and accountability plan on or before October 8, if he or she determines both of the following:

(1) The local control and accountability plan or annual update to the local control and accountability plan adheres to the template adopted by the state board pursuant to Section 52064.

(2) The budget for the applicable fiscal year adopted by the county board of education includes expenditures sufficient to implement the specific actions and strategies included in the local control and accountability plan adopted by the county board of education, based on the projections of the costs included in the plan.

**52071.** (a) If a county superintendent of schools does not approve a local control and accountability plan or annual update to the local control and accountability plan approved by a governing board of a school district, or if the governing board of a school district requests technical assistance, the county superintendent of schools shall provide technical assistance, including, among other things, any of the following:

(1) Identification of the school district's strengths and weaknesses in regard to the state priorities described in subdivision (d) of Section 52060, communicated in writing to the school district. This identification shall include a review of effective, evidence-based programs that apply to the school district's goals.

(2) Assignment of an academic expert or team of academic experts to assist the school district in identifying and implementing effective programs that are designed to improve the outcomes for all pupil subgroups identified pursuant to Section 52052. The county superintendent of schools may also solicit another school district within the county to act as a partner to the school district in need of technical assistance.

(3) Request that the Superintendent assign the California Collaborative for Educational Excellence to provide advice and assistance to the school district.

(b) Using an evaluation rubric adopted by the state board pursuant to Section 52064.5, the county superintendent of schools shall provide the technical assistance described in subdivision (a) to any school district that fails to improve pupil achievement across more than one state priority described in subdivision (d) of Section 52060 for one or more pupil subgroup identified pursuant to Section 52052.

(c) Technical assistance provided pursuant to this section at the request of a school district shall be paid for by the school district requesting the assistance.

**52071.5.** (a) If the Superintendent does not approve a local control and accountability plan or annual update to the local control and accountability plan approved by a county board of education, or if the county board of education requests technical assistance, the Superintendent shall provide technical assistance, including, among other things, any of the following:

(1) Identification of the county board of education's strengths and weaknesses in regard to the state priorities described in subdivision (d) of Section 52066, communicated in writing to the county board of education. This identification shall include a review of effective, evidence-based programs that apply to the board's goals.

(2) Assignment of an academic expert or team of academic experts, or the California Collaborative for Educational Excellence established pursuant to Section 52074, to assist the county board of education in identifying and implementing effective programs that are designed to improve the outcomes for all pupil subgroups identified pursuant to Section 52052. The Superintendent may also solicit another county office of education to act as a partner to the county office of education in need of technical assistance.

(b) Using an evaluation rubric adopted by the state board pursuant to Section 52064.5, the Superintendent shall provide the technical assistance described in subdivision (a) to any county office of education that fails to improve pupil achievement in regard to more than one state priority described in subdivision (d) of Section 52066 for one or more pupil subgroups identified pursuant to Section 52052.

(c) Technical assistance provided pursuant to this section at the request of a county board of education shall be paid for by the county board of education receiving assistance.

**52072.** (a) The Superintendent may, with the approval of the state board, identify school districts in need of intervention.

(b) The Superintendent shall only intervene in a school district that meets both of the following criteria:

(1) The school district did not improve the outcomes for three or more pupil subgroups identified pursuant to Section 52052 or, if the school district has less than three pupil subgroups, all of the school district's pupil subgroups, in regard to more than one state or local priority in three out of four consecutive school years.

(2) The California Collaborative for Educational Excellence has provided advice and assistance to the school district pursuant to Section 52071 and submits either of the following findings to the Superintendent:

(A) That the school district has failed, or is unable, to implement the recommendations of the California Collaborative for Educational Excellence.

(B) That the inadequate performance of the school district, based upon an evaluation rubric adopted pursuant to Section 52064.5, is either so persistent or acute as to require intervention by the Superintendent.

(c) For school districts identified pursuant to subdivision (a), the Superintendent may, with the approval of the state board, do one or more of the following:

(1) Make changes to a local control and accountability plan adopted by the governing board of the school district.

(2) Develop and impose a budget revision, in conjunction with revisions to the local control and accountability plan, that the Superintendent determines would allow the school district to improve the outcomes for all pupil

subgroups identified pursuant to Section 52052 in regard to state and local priorities.

(3) Stay or rescind an action, if that action is not required by a local collective bargaining agreement, that would prevent the school district from improving outcomes for all pupil subgroups identified pursuant to Section 52052 in regard to state or local priorities.

(4) Appoint an academic trustee to exercise the powers and authority specified in this section on his or her behalf.

(d) The Superintendent shall notify the county superintendent of schools, the county board of education, the superintendent of the school district, and the governing board of the school district of any action by the state board to direct him or her to exercise any of the powers and authorities specified in this section.

**52072.5.** (a) The Superintendent may, with the approval of the state board, identify county offices of education in need of intervention.

(b) The Superintendent shall only intervene in a county office of education that meets both of the following criteria:

(1) The county office of education did not improve the outcomes for three or more pupil subgroups identified pursuant to Section 52052 or, if the county office of education has less than three pupil subgroups, all of the county office of education's pupil subgroups, in regard to more than one state or local priority in three out of four consecutive school years.

(2) The California Collaborative for Educational Excellence has provided advice and assistance to the county office of education pursuant to Section 52071.5 and submits either of the following findings to the Superintendent:

(A) That the county office of education has failed, or is unable, to implement the recommendations of the California Collaborative for Educational Excellence.

(B) That the inadequate performance of the county office of education, based upon an evaluation rubric adopted pursuant to Section 52064.5, is either so persistent or acute as to require intervention by the Superintendent.

(c) For county offices of education identified pursuant to subdivision (a), the Superintendent may, with the approval of the state board, do one or more of the following:

(1) Make changes to a local control and accountability plan adopted by the county board of education.

(2) Develop and impose a budget revision, in conjunction with revisions to the local control and accountability plan, that the Superintendent determines would allow the county office of education to improve the outcomes for all pupil subgroups identified pursuant to Section 52052 in regard to state and local priorities.

(3) Stay or rescind an action, if that action is not required by a local collective bargaining agreement, that would prevent the county office of education from improving outcomes for all pupil subgroups identified pursuant to Section 52052 in regard to state or local priorities.

(4) Appoint an academic trustee to exercise the powers and authority specified in this section on his or her behalf.

(d) The Superintendent shall notify the county board of education and the county superintendent of schools, in writing, of any action by the state board to direct him or her to exercise any of the powers and authorities specified in this section.

**52074.** (a) The California Collaborative for Educational Excellence is hereby established.

(b) The purpose of the California Collaborative for Educational Excellence is to advise and assist school districts, county superintendents of schools, and charter schools in achieving the goals set forth in a local control and accountability plan adopted pursuant to this article.

(c) The Superintendent shall, with the approval of the state board, contract with individuals, local educational agencies, or organizations with the expertise, experience, and a record of success to carry out the purposes of this article. The areas of expertise, experience, and record of success shall include, but are not limited to, all of the following:

(1) State priorities as described in subdivision (d) of Section 52060.

(2) Improving the quality of teaching.

(3) Improving the quality of school district and schoolsite leadership.

(4) Successfully addressing the needs of special pupil populations, including, but not limited to, English learners, pupils eligible to receive a free or reduced-price meal, pupils in foster care, and individuals with exceptional needs.

(d) The Superintendent may direct the California Collaborative for Educational Excellence to advise and assist a school district, county superintendent of schools, or charter school in any of the following circumstances:

(1) If the governing board of a school district, county board of education, or governing body or a charter school requests the advice and assistance of the California Collaborative for Educational Excellence.

(2) If the county superintendent of schools of the county in which the school district or charter school is located determines, following the provision of technical assistance pursuant to Section 52071 or 47607.3 as applicable, that the advice and assistance of the California Collaborative for Educational Excellence is necessary to help the school district or charter school accomplish the goals described in the local control and accountability plan adopted pursuant to this article.

(3) If the Superintendent determines that the advice and assistance of the California Collaborative for Educational Excellence is necessary to help the school district, county superintendent of schools, or charter school accomplish the goals set forth in the local control and accountability plan adopted pursuant to this article.

**52075.** (a) A complaint that a school district, county superintendent of schools, or charter school has not complied with the requirements of this article or Sections 47606.5 and 47607.3, as applicable, may be filed with a school district, county superintendent of schools, or charter school pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(b) A complaint may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with the requirements of this article.

(c) A complainant not satisfied with the decision of a school district, county superintendent of schools, or charter school may appeal the decision to the Superintendent and shall receive a written appeal decision within 60 days of the Superintendent's receipt of the appeal.

(d) If a school district, county superintendent of schools, or charter school finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district, county superintendent of schools, or charter school shall provide a remedy to all affected pupils, parents, and guardians.

(e) Information regarding the requirements of this article shall be included in the annual notification distributed to pupils, parents and guardians, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations or any successor regulation.

(f) School districts, county superintendents of schools, and charter schools shall establish local policies and procedures to implement the provisions of this section on or before June 30, 2014.

**52076.** Notwithstanding any other law, this article shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

**52077.** If any activities authorized pursuant to this article and implementing regulations are found to be a state reimbursable mandate pursuant to Section 6 of Article XIII B of the California Constitution, funding provided for school districts and county offices of education pursuant to Sections 2574, 2575, 42238.02, and 42238.03 shall be used to directly offset any mandated costs.

**SEC. 104.** Section 56365 of the Education Code is amended to read:

**56365.** (a) Services provided by nonpublic, nonsectarian schools, as defined pursuant to Section 56034, and nonpublic, nonsectarian agencies, as defined pursuant to Section 56035, shall be made available. These services shall be provided pursuant to Section 56366, and in accordance with Section 300.146 of Title 34 of the Code of



Federal Regulations, under contract with the local educational agency to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 of Division 3 and Section 42238.02. The local educational agency shall be eligible to receive allowances under Articles 3 (commencing with Section 56836.165) and 4 (commencing with Section 56836.20) of Chapter 7.2 for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state-operated or state-supported programs for individuals with exceptional needs (Public Law 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state-supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a local educational agency. In order to participate in the federal program, the state shall find that participation will not result in any additional expenditures from the General Fund.

(d) The local educational agency shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, the local educational agency shall document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

(f) If a local educational agency places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the Superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The Superintendent shall submit a report to the board on all placements made outside of this state.

(g) If a local educational agency decides to place a pupil with a nonpublic, nonsectarian school or agency outside of this state, that local educational agency shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

(h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(i) A nonpublic, nonsectarian school or agency that is located outside of this state is eligible for certification pursuant to Section 56366.1 only if a pupil is enrolled in a program operated by that school or agency pursuant to the recommendation of an individualized education program team in California, and if that pupil's parents or guardians reside in California.

(j) In accordance with Section 300.147(b) and (c) of Title 34 of the Code of Federal Regulations, the department shall disseminate copies of applicable standards to each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a local educational agency has referred or placed an individual with exceptional needs and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

**SEC. 105.** Section 56366.1 of the Education Code is amended to read:

**56366.1.** (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department and include the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) An annual operating budget.

(5) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.

(b) (1) The applicant shall provide the special education local plan area in which the applicant is located with the written notification of its intent to seek certification or renewal of its certification. The applicant shall submit on a form, developed by the department, a signed verification by local educational agency representatives that they have been notified of the intent to certify or renew certification. The verification shall include a statement that representatives of the local educational agency for the area in which the applicant is located have had the opportunity to review the application at least 60 calendar days prior to submission of an initial application to the Superintendent, or at least 30 calendar days prior to submission of a renewal application to the Superintendent. The signed verification shall provide assurances that local educational agency representatives have had the opportunity to provide input on all required components of the application.

(2) If the applicant has not received a response from the local educational agency 60 calendar days from the date of the return receipt for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent. A copy of the return receipt shall be included with the application as verification of notification efforts to the local educational agency.

(3) The department shall mail renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days before the date their current certification expires.

(c) If the applicant operates a facility or program on more than one site, each site shall be certified.

(d) If the applicant is part of a larger program or facility on the same site, the Superintendent shall consider the effect of the total program on the applicant. A copy of the policies and standards for the nonpublic, nonsectarian school or agency and the larger program shall be available to the Superintendent.

(e) Before certification, the Superintendent shall conduct an onsite review of the facility and program for which the applicant seeks certification. The Superintendent may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The Superintendent shall conduct an additional onsite review of the facility and program within three years of the effective date of the certification, unless the Superintendent conditionally certifies the school or agency or unless the Superintendent receives a formal complaint against the school or agency. In the latter two cases, the Superintendent shall conduct an onsite review at least annually.

(f) The Superintendent shall make a determination on an application within 120 days of receipt of the application and shall certify, conditionally certify, or deny certification to the applicant. If the Superintendent fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31 of the current school year. If certification is denied, the Superintendent shall provide reasons for the denial. The Superintendent may certify the school or agency for a period of not longer than one year.

(g) Certification becomes effective on the date the nonpublic, nonsectarian school or agency meets all the application requirements and is approved by the Superintendent. Certification may be retroactive if the school or agency met all the requirements of this section on the date the retroactive certification is effective. Certification expires on December 31 of the terminating year.

(h) The Superintendent annually shall review the certification of each nonpublic, nonsectarian school and agency. For this purpose, a certified school or agency annually shall update its application between August 1 and October 31, unless the board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.

(i) (1) The Superintendent shall conduct an investigation of a nonpublic, nonsectarian school or agency onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The Superintendent shall document the concern and submit it to the nonpublic, nonsectarian school or agency at the time of the onsite investigation. The Superintendent shall require a written response to any noncompliance or deficiency found.

(2) With respect to a nonpublic, nonsectarian school, the Superintendent shall conduct an investigation, which may include an unannounced onsite visit, if the Superintendent receives evidence of a significant deficiency in the quality of educational services provided, a violation of Section 56366.9, or noncompliance with the policies expressed by subdivision (b) of Section 1501 of the Health and Safety Code by the nonpublic, nonsectarian school. The Superintendent shall document the complaint and the results of the investigation and shall provide copies of the documentation to the complainant, the nonpublic, nonsectarian school, and the contracting local educational agency.

(3) Violations or noncompliance documented pursuant to paragraph (1) or (2) shall be reflected in the status of the certification of the school, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school. The department shall retain for a period of 10 years all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard-focused instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

(1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.

(2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.

(3) The Superintendent shall conduct a followup visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.

(2) The notification shall occur no later than the December 1 before the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

(A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.

(B) The location of the proposed program or facility.

(C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other nonspecial education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.

(D) The reason for the proposed change in services.

(E) The number of staff who will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered.

(3) In addition to the requirements in subdivisions (a) to (f), inclusive, the Superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

(A) A complete statement of the information required as part of the notice under paragraph (1).

(B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other law, the certification becomes effective no earlier than July 1 if the school or agency provided the notification required pursuant to paragraph (1).

(l) (1) Notwithstanding any other law, the Superintendent shall not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children’s institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entitywide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, “licensed children’s institution” has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the school district local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1–5 pupils .....	\$ 300
(2) 6–10 pupils .....	500
(3) 11–24 pupils .....	1,000
(4) 25–75 pupils .....	1,500
(5) 76 pupils and over .....	2,000

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) The board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.

**SEC. 106.** Section 56836.21 of the Education Code is amended to read:

**56836.21.** (a) The department shall administer an extraordinary cost pool to protect special education local plan areas from the extraordinary costs associated with single placements as described in subdivision (d). Funds shall be appropriated for this purpose in the annual Budget Act. Special education local plan areas shall be eligible for reimbursement from this pool in accordance with this section.

(b) The threshold amount for claims under this section shall be the lesser of the following:

(1) One percent of the allocation calculated pursuant to Section 56836.08 for the special education local plan area for the current fiscal year for any special education local plan area that meets the criteria in Section 56212.

(2) The department shall calculate the average cost of a nonpublic, nonsectarian school placement in the 1997–98 fiscal year. This amount shall be multiplied by 2.5, then by one plus the inflation factor computed pursuant to Section 42238.1, as that section read on January 1, 2013, to obtain the alternative threshold amount for claims in the 1998–99 fiscal year. In subsequent fiscal years, the alternative threshold amount shall be the alternative threshold amount for the prior fiscal year multiplied by one plus the inflation factor computed pursuant to Section 42238.1, as that section read on January 1, 2013, through the 2012–13 fiscal year and, commencing with the 2013–14 fiscal year, paragraph (2) of subdivision (d) of Section 42238.02.

(c) Special education local plan areas are eligible to submit claims for costs exceeding the threshold amount on forms developed by the department. All claims for a fiscal year shall be submitted by November 30 following the close of the fiscal year. If the total amount claimed by special education local plan areas exceeds the amount appropriated, the claims shall be prorated.

(d) Special education local plan areas are eligible to submit claims for the costs of nonpublic, nonsectarian school placements in excess of those in existence in the 1997–98 fiscal year and of special education and related services for pupils who reside in licensed children's institutions.

**SEC. 107.** Section 56836.24 of the Education Code is amended to read:

**56836.24.** Commencing with the 1998–99 fiscal year and each year thereafter, the Superintendent shall make the following computations to determine the amount of funding for the purposes specified in Section 56836.23 to apportion to each special education local plan area for the fiscal year in which the computation is made:

(a) For the 1998–99 fiscal year the superintendent shall make the following computations:

(1) Multiply the total amount of state General Fund money allocated to the special education local plan areas in the 1997–98 fiscal year, for the purposes of Article 9 (commencing with Section 56780) of Chapter 7, as that chapter existed on December 31, 1998, by one plus the inflation factor computed pursuant to subdivision (b) of Section 42238.1, as that section read on January 1, 2013, for the 1998–99 fiscal year.

(2) Divide the amount calculated in paragraph (1) by the units of average daily attendance, exclusive of average daily attendance for absences excused pursuant to subdivision (b) of Section 46010 as that subdivision read on July 1, 1997, reported for the special education local plan area for the 1997–98 fiscal year.

(3) To determine the amount to be allocated to each special education local plan area in the 1998–99 fiscal year, the superintendent shall multiply the amount computed in paragraph (2) by the number of units of average daily attendance reported for the special education local plan area for the 1998–99 fiscal year, except that a special education local plan area designated as a necessary small special education local plan area in accordance with Section 56212 and reporting fewer than 15,000 units of average daily attendance for the 1998–99 fiscal year shall be deemed to have 15,000 units of average daily attendance, and no special education local plan area shall receive less than it received in the 1997–98 fiscal year.

(b) For the 1999–2000 fiscal year and each fiscal year thereafter, the Superintendent shall make the following calculations:

(1) Multiply the amount determined in paragraph (2) of subdivision (a) by one plus the inflation factor computed pursuant to subdivision (b) of Section 42238.1, as that section read on January 1, 2013, and commencing with the 2013–14 fiscal year, paragraph (2) of subdivision (d) of Section 42238.02 for the current fiscal year.

(2) Multiply the amount determined in paragraph (1) by the number of units of average daily attendance reported for the special education local plan area for the current fiscal year, except that a special education local plan area designated as a necessary small special education local plan area in accordance with Section 56212

and reporting fewer than 15,000 units of average daily attendance for the current fiscal year shall be deemed to have 15,000 units of average daily attendance.

**SEC. 108.** Section 7906 of the Government Code is amended to read:

**7906.** For school districts:

(a) "ADA" means a school district's second principal apportionment units of average daily attendance as determined pursuant to Section 42238.5 of the Education Code, including average daily attendance in summer school, regional occupational centers and programs, and apprenticeship programs, and excluding average daily attendance in adult education programs. All other units of average daily attendance including, but not limited to, special day classes for special education pupils, shall be included.

(1) For purposes of this subdivision, the average daily attendance of apprenticeship programs shall be determined pursuant to Section 79149.1 of the Education Code.

(2) For the 2008–09 fiscal year and each fiscal year thereafter, the average daily attendance of public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, shall include the same amount of average daily attendance for classes for supplemental instruction and regional occupational centers and programs that was used for purposes of this section for the 2007–08 fiscal year.

(b) "Foundation program level" means:

(1) For the 1978–79 fiscal year, one thousand two hundred forty-one dollars (\$1,241) for elementary school districts, one thousand three hundred twenty-two dollars (\$1,322) for unified school districts, and one thousand four hundred twenty-seven dollars (\$1,427) for high school districts.

(2) For the 1979–80 fiscal year to the 1986–87 fiscal year, inclusive, the levels specified in paragraph (1) increased by the lesser of the change in cost of living or California per capita personal income for the preceding calendar year.

(3) For the 1986–87 fiscal year, the levels specified in paragraph (2) increased by one hundred eighty dollars (\$180) for elementary school districts, one hundred ninety-one dollars (\$191) for unified school districts, and two hundred seven dollars (\$207) for high school districts.

(4) For the 1987–88 fiscal year, the levels specified in paragraph (3) increased by the lesser of the change in cost of living or California per capita personal income for the preceding calendar year.

(5) For the 1988–89 fiscal year and each fiscal year thereafter, the foundation program level shall be the appropriations limit of the school district for the current fiscal year, plus amounts paid for any nonreimbursed court or federal mandates imposed on or after November 6, 1979, less the sum of the following:

(A) Interest earned on the proceeds of taxes during the current fiscal year.

(B) The 50 percent of miscellaneous funds received during the current fiscal year that are from the proceeds of taxes.

(C) Locally voted taxes received during the current fiscal year, such as parcel taxes or square foot taxes, unless for voter-approved bonded debt.

(D) Any other local proceeds of taxes received during the current fiscal year, other than local taxes which count towards the revenue limit, such as excess bond revenues transferred to a district's general fund pursuant to Section 15234 of the Education Code.

(c) "Proceeds of taxes" shall be deemed to include subventions received from the state only if those subventions are for one of the following two purposes:

(1) Basic aid subventions of one hundred twenty dollars (\$120) per ADA.

(2) Additional apportionments that, when added to the district's local revenues as defined in Section 42238 of the Education Code, do not exceed the foundation program level for that district. In no case shall subventions received from the state for reimbursement of state mandates in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 or for reimbursement of court or federal mandates imposed on or after November 6, 1979, be considered "proceeds of taxes" for purposes of this section.

(d) Proceeds of taxes for a fiscal year shall not include any proceeds of taxes within the district's beginning balance or reserve, unless those funds were not appropriated in a prior fiscal year. Funds that were appropriated to a reserve or other fund referenced in Section 5 of Article XIII B of the California Constitution shall be deemed to be appropriated for the purpose of this paragraph.

(e) The remainder of the state apportionments, including special purpose apportionments and categorical aid subventions shall not be considered proceeds of taxes for a school district.

(f) Each school district shall report to the Superintendent of Public Instruction and to the Director of Finance at least annually its appropriations limit, its appropriations subject to limitation, the amount of its state aid apportionments and subventions included within the proceeds of taxes of the school district, and amounts excluded from its appropriations limit, at a time and in a manner prescribed by the Superintendent of Public Instruction and approved by the Director of Finance.

(g) For the 1988–89 fiscal year and each fiscal year thereafter, nothing in paragraph (2) of subdivision (c) shall be so construed as to require that the amount determined pursuant to subdivision (b) be multiplied by the amount determined pursuant to subdivision (a) for purposes of determining the amount of state aid included in school district "proceeds of taxes" for purposes of this section.

**SEC. 109.** Section 50286 of the Government Code is amended to read:

**50286.** (a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 121/2 percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238.02 of the Education Code, as implemented pursuant to Section 42238.03 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for purposes of Article 4 (commencing with Section 2570) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

**SEC. 110.** Section 33492.78 of the Health and Safety Code is amended to read:

**33492.78.** (a) Section 33607.5 shall not apply to an agency created pursuant to this article. For purposes of Sections 42238.02, 84750.5, and 84751 of the Education Code, funds allocated pursuant to this section shall be treated as if they were allocated pursuant to Section 33607.5.

(1) This section shall apply to each redevelopment project area created pursuant to a redevelopment plan that contains the provisions required by Section 33670 and is created pursuant to this article. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted from the total amount of tax-increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the school district or districts and community college district or districts receive pursuant to subdivision (a) of Section 33670. The agency shall reduce its payments pursuant to this section to an affected school or community college district by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, or 33446, or any provision of law other than this section for, or in connection with, a public facility owned or leased by that affected school or community college district.

(3) (A) Of the total amount paid each year pursuant to this section to school districts, 43.9 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 56.1 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(B) Of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(C) Of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (c) of Section 2575 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(D) Of the total amount paid each year pursuant to this section to special education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(4) Local education agencies that use funds received pursuant to this section for educational facilities shall spend these funds at schools that are any one of the following:

(A) Within the project area.

(B) Attended by students from the project area.

(C) Attended by students generated by projects that are assisted directly by the redevelopment agency.

(D) Determined by a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments, and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district an amount equal to the product of 25 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district, in addition to the amounts paid pursuant to subdivision (b), an amount equal to the product of 21 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the first adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The first adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected school and community college districts, in addition to the amounts paid pursuant to subdivisions (b) and (c), an amount equal to 14 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the second adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The second adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected school and community college districts may incur as a result of the adoption of a



redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected school and community college districts during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected school or community college districts, or to pay for public facilities that will be owned or leased to an affected school or community college district.

(f) As used in this section, a "local education agency" includes a school district, a community college district, or a county office of education.

**SEC. 111.** Section 33607.5 of the Health and Safety Code is amended to read:

**33607.5.** (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, as it read on January 1, 2013, and paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, as it read on January 1, 2013, and Section 2575 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency,

which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds, or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

**SEC. 112.** Section 33684 of the Health and Safety Code is amended to read:

**33684.** (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan that contains the provisions required by Section 33670, meets any of the following:

(A) Was adopted on or after January 1, 1994, including later amendments to these redevelopment plans.

(B) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section.

(C) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to increase the limitation on the number of dollars to be allocated to the agency or that increased, or eliminated, pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthened the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670.

(2) This section shall apply to passthrough payments, as required by Sections 33607.5 and 33607.7, for the 2003-04 to 2008-09, inclusive, fiscal years. For purposes of this section, a passthrough payment shall be considered the responsibility of an agency in the fiscal year the agency receives the tax increment revenue for which the passthrough payment is required.

(3) For purposes of this section, "local educational agency" is a school district, a community college district, or a county office of education.

(b) On or before October 1, 2008, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2003, and June 30, 2008, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7, and accumulated gross tax increments through June 30, 2003.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing agency under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Section 33607.5 and Section 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive difference.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive difference.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(9) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(c) On or before October 1, 2009, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2008, and June 30, 2009, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing entity under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Sections 33607.5 and 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive difference.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive difference.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(d) If an agency reports pursuant to paragraph (6) of subdivision (b) or paragraph (6) of subdivision (c) that it has an outstanding passthrough payment obligation to any taxing entity, the agency shall submit annual updates to the county auditor on October 1 of each year until such time as the county auditor notifies the agency in writing that the agency's outstanding payment obligations have been fully satisfied. The report shall contain both of the following:

(1) A list of payments to each taxing agency and to the Educational Revenue Augmentation Fund pursuant to subdivision (j) that the agency disbursed after the agency's last update filed pursuant to this subdivision or, if no update has been filed, after the agency's submission of the reports required pursuant to subdivisions (b) and (c). The list of payments shall include only those payments that address obligations identified pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c). The update shall specify the date on which each payment was disbursed.

(2) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(e) The county auditor shall review each agency's reports submitted pursuant to subdivisions (b) and (c) and any other relevant information to determine whether the county auditor concurs with the information included in the reports.

(1) If the county auditor concurs with the information included in a report, the county auditor shall issue a finding of concurrence within 45 days.

(2) If the county auditor does not concur with the information included in a report or considers the report to be incomplete, the county auditor shall return the report to the agency within 45 days with information identifying the elements of the report with which the county auditor does not concur or considers to be incomplete. The county auditor shall provide the agency at least 15 days to respond to concerns raised by the county auditor regarding the information contained in the report. An agency may revise a report that has not received a finding of concurrence and resubmit it to the county auditor.

(3) If an agency and county auditor do not agree regarding the passthrough requirements of Sections 33607.5 and 33607.7, an agency may submit a report pursuant to subdivisions (b) and (c) and a statement of dispute identifying the issue needing resolution.

(4) An agency may amend a report for which the county auditor has issued a finding of concurrence and resubmit the report pursuant to paragraphs (1), (2), and (3) if any of the following apply:

(A) The county auditor and agency agree that an issue identified in the agency's statement of dispute has been resolved and the agency proposes to modify the sections of the report to conform with the resolution of the statement of dispute.

(B) The county auditor and agency agree that the amount of gross tax increment or the amount of a passthrough payment to a taxing entity included in the report is not accurate.

(5) The Controller may revoke a finding of concurrence and direct the agency to resubmit a report to the county auditor pursuant to paragraphs (1), (2), and (3) if the Controller finds significant errors in a report.

(f) On or before December 15, 2008, and annually thereafter through 2014, the county auditor shall submit a report to the Controller that includes all of the following:

(1) The name of each redevelopment project area in the county for which an agency must submit a report pursuant to subdivision (b) or (c) and information as to whether the county auditor has issued a finding of concurrence regarding the report.

(2) A list of the agencies for which the county auditor has issued a finding of concurrence for all project areas identified in paragraph (1).

(3) A list of agencies for which the county auditor has not issued a finding of concurrence for all project areas identified in paragraph (1).

(4) Using information applicable to agencies listed in paragraph (2), the county auditor shall report all of the following:

(A) The total sums reported by each redevelopment agency related to each taxing entity pursuant to paragraphs (1) to (7), inclusive, of subdivision (b) and, on or after December 15, 2009, pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

(B) The names of agencies that have outstanding passthrough payment obligations to a local educational agency that exceed the amount of outstanding passthrough payments to the local educational agency.

(C) Summary information regarding agencies' stated plans to pay the outstanding amounts identified in paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the actual amounts that have been deposited into the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) All unresolved statements of dispute filed by agencies pursuant to paragraph (3) of subdivision (e) and the county auditor's analyses supporting the county auditor's conclusions regarding the issues under dispute.

(g) (1) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the Legislative Analyst's Office and the Department of Finance and provide a copy to the Board of Governors of the California Community Colleges. The report shall provide information as follows:

(A) Identify agencies for which the county auditor has issued a finding of concurrence for all reports required under subdivisions (b) and (c).

(B) Identify agencies for which the county auditor has not issued a finding of concurrence for all reports required pursuant to subdivision (b) and all reports required pursuant to subdivision (c) or for which a finding of concurrence has been withdrawn by the Controller.

(C) Summarize the information reported in paragraph (4) of subdivision (f). This summary shall identify, by local educational agency and by year, the total amount of passthrough payments that each local educational agency received, was entitled to receive, subordinated, or that has not yet been paid, and the portion of these amounts that are considered to be property taxes for purposes of Sections 2558 and 42238 of the Education Code, as those sections read on January 1, 2013, and, after June 30, 2013, Sections 2575 and 42238.02, and Section 84751 of the Education Code. The report shall identify, by agency, the amounts that have been deposited to the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) Summarize the statements of dispute. The Controller shall specify the status of these disputes, including whether the Controller or other state entity has provided instructions as to how these disputes should be resolved.

(E) Identify agencies that have outstanding passthrough payment liabilities to a local educational agency that exceed the amount of outstanding passthrough overpayments to the local educational agency.

(2) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the State Department of Education and the Board of Governors of the California Community Colleges. The report shall identify, by local educational agency and by year of receipt, the total amount of passthrough payments that the local educational agency received from redevelopment agencies listed in subparagraph (A) of paragraph (1).

(h) (1) On or before April 1, 2009, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code, as it read on January 1, 2013.

(B) Calculate for each county superintendent of schools for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code, as it read on January 1, 2013.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on apportionments. After

April 1, 2009, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(2) On or before April 1, 2010, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2008–09 fiscal year the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code, as it read on January 1, 2013.

(B) Calculate for each county superintendent of schools for the 2008–09 fiscal year the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code, as it read on January 1, 2013.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on revenue limit apportionments. After April 1, 2010, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(3) For the purposes of Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code, the amounts reported to each school district and county superintendent of schools in the notification required pursuant to subparagraph (C) of paragraph (1) and subparagraph (C) of paragraph (2) shall be deemed to be apportionment significant audit exceptions and the date of receipt of that notification shall be deemed to be the date of receipt of the final audit report that includes those audit exceptions.

(4) On or before March 1, 2009, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on apportionments. After March 1, 2009, however, the board shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(5) On or before March 1, 2010, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on revenue apportionments. After March 1, 2010, however, the board shall not notify a community college district if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(6) A community college district may submit documentation to the Board of Governors of the California Community Colleges showing that all or part of the amount reported to the district pursuant to subparagraph (B) of paragraph (4) and subparagraph (B) of paragraph (5) was previously reported to the California Community Colleges for the purpose of the revenue level calculations made pursuant to Section 84751 of the Education Code. Upon acceptance of the documentation, the board shall adjust the amounts calculated in paragraphs (4) and (5) accordingly.

(7) The Board of Governors of the California Community Colleges shall make corrections in any amounts allocated in any fiscal year to each community college district for which any amount calculated in paragraphs (4)

and (5) is nonzero so as to account for the changes reported pursuant to paragraph (4) of subdivision (b) and paragraph (4) of subdivision (c). The board may make the corrections over a period of time, not to exceed five years.

(i) (1) After February 1, 2009, for an agency listed on the most recent Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g), all of the following shall apply:

(A) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(B) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(C) The agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend funds to pay, if any, all of the following:

(i) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in subparagraph (B) whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460).

(ii) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, local agencies, or a private entity.

(iii) Contractual obligations that, if breached, could subject the agency to damages or other liabilities or remedies.

(iv) Obligations incurred pursuant to Section 33445.

(v) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(vi) Obligations incurred pursuant to Section 33401.

(vii) An amount, to be expended for the monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency was first listed on the Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g).

(2) After February 1, 2009, an agency identified in subparagraph (B) or (E) of paragraph (1) of subdivision (g) shall incur interest charges on any passthrough payment that is made to a local educational agency more than 60 days after the close of the fiscal year in which the passthrough payment was required. Interest shall be charged at a rate equal to 150 percent of the current Pooled Money Investment Account earnings annual yield rate and shall be charged for the period beginning 60 days after the close of the fiscal year in which the passthrough payment was due through the date that the payment is made.

(3) The Controller, with the concurrence of the Director of Finance, may waive the provisions of paragraphs (1) and (2) for a period of up to 12 months if the Controller determines all of the following:

(A) The county auditor has identified the agency in its most recent report issued pursuant to paragraph (2) of subdivision (f) as an agency for which the auditor has issued a finding of concurrence for all reports required pursuant to subdivisions (b) and (c).

(B) The agency has filed a statement of dispute on an issue or issues that, in the opinion of the Controller, are likely to be resolved in a manner consistent with the agency's position.

(C) The agency has made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund, or has had funds previously withheld by the auditor, in amounts that would satisfy the agency's passthrough payment requirements to local educational agencies if the issue or issues addressed in the statement of dispute were resolved in a manner consistent with the agency's position.

(D) The agency would sustain a fiscal hardship if it made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund in the amounts estimated by the county auditor.



(j) Notwithstanding any other provision of law, if an agency report submitted pursuant to subdivision (b) or (c) indicates outstanding payment obligations to a local educational agency, the agency shall make these outstanding payments as follows:

(1) Of the outstanding payments owed to school districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 43.3 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the school district or districts.

(2) Of the outstanding payments owed to community college districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 47.5 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the community college district or districts.

(3) Of the outstanding payments owed to county offices of education, including any interest payments pursuant to paragraph (2) of subdivision (i), 19 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the county office of education.

(k) (1) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

(2) Notwithstanding any other provision of law, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to subdivision (j) shall be distributed to a community college district.

(l) A county may require an agency to reimburse the county for any expenses incurred by the county in performing the services required by this section.

**SEC. 113.** Section 95 of the Revenue and Taxation Code is amended to read:

**95.** For purposes of this chapter:

(a) "Local agency" means a city, county, and special district.

(b) "Jurisdiction" means a local agency, school district, community college district, or county superintendent of schools. A jurisdiction as defined in this subdivision is a "district" for purposes of Section 1 of Article XIII A of the California Constitution.

For jurisdictions located in more than one county, the county auditor of each county in which that jurisdiction is located shall, for the purposes of computing the amount for that jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) "Property tax revenue" includes the amount of state reimbursement for the homeowners' exemption. "Property tax revenue" does not include the amount of property tax levied for the purpose of making payments for the interest and principal on either of the following:

(1) General obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308 and 39311 and former Sections 81338 and 81341 of the Education Code, and Section 26912.7 of the Government Code.

(2) Bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) "Taxable assessed value" means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.

(e) "Jurisdictional change" includes any change of organization, as defined in Section 56021 of the Government Code and a reorganization, as defined in Section 56073 of the Government Code. "Jurisdictional change" also includes any change in the boundary of those special districts that are not under the jurisdiction of a local agency formation commission.

"Jurisdictional change" also includes a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or

community college district or county superintendent of schools.

(f) "School entities" means school districts, community college districts, the Educational Revenue Augmentation Fund, and county superintendents of schools.

(g) Except as otherwise provided in this subdivision, "tax rate area" means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to the change shall constitute a new tax rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax rate area, the two tax rate areas may be combined into one tax rate area.

Existing tax rate areas having the same combinations of local agencies and school entities may be combined into one tax rate area. For the combination of existing tax rate areas, the factors used to allocate the annual tax increment pursuant to Section 98 shall be determined by calculating a weighted average of the annual tax increment factors used in the tax rate areas being combined.

(h) "State assistance payments" means:

(1) For counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of Chapter 282 of the Statutes of 1979, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.

(2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code, plus for any city an additional amount equal to one-half of the amount of any outstanding debt as of June 30, 1978, for "museums" as shown in the Controller's "Annual Report of Financial Transactions of Cities for Fiscal Year 1977-78."

(3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.

(i) "City clerk" means the clerk of the governing body of a city or city and county.

(j) "Executive officer" means the executive officer of a local agency formation commission.

(k) "City" means any city whether general law or charter, except a city and county.

(l) "County" means any chartered or general law county. "County" includes a city and county.

(m) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. "Special district" includes the Bay Area Air Quality Management District. "Special district" does not include a city, a county, a school district, or a community college district. "Special district" does not include any agency that is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district. Additionally, a county free library established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part 11 of Division 1 of Title 1 of the Education Code, and for which a property tax was levied in the 1977-78 fiscal year, shall be considered a special district.

(n) "Excess tax school entity" means an educational agency for which the amount of the state funding entitlement determined under subdivision (e), (f), or (g) of Section 2575, or Section 84750.5 or 84751 of the Education Code, as appropriate, is zero, and as described in subdivision (o) of Section 42238.02 of the Education Code, as implemented by Section 42238.03 of the Education Code.

**SEC. 114.** Section 196.4 of the Revenue and Taxation Code is amended to read:

**196.4.** (a) In the 1991-92 fiscal year, the county auditor of an eligible county, proclaimed by the Governor to be in a state of disaster as a result of the Oakland/Berkeley Fire that occurred in October 1991, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular

secured roll and the supplemental roll for that fiscal year resulting from the reassessment of eligible properties by the county assessor pursuant to Section 170, except that the amount certified shall not include any estimated property tax revenue reductions to school districts (other than basic state aid school districts), county offices of education, and community college districts.

(b) In the 1991–92 fiscal year, the county auditor of an eligible county, proclaimed by the Governor to be in a state of disaster as a result of the Painted Cave Fire that occurred in June 1990, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for the 1990–91 fiscal year resulting from the reassessment of eligible properties by the county assessor pursuant to Section 170, except that the amount certified shall not include any estimated property tax revenue reductions to school districts (other than basic aid school districts), county offices of education, and community college districts.

(c) For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, as it read on January 1, 2013, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

**SEC. 115.** (a) The sum of two billion ninety-nine million one hundred sixty-one thousand dollars (\$2,099,161,000) is hereby appropriated from the General Fund for the purposes of this act as follows:

(1) Two million dollars (\$2,000,000) shall be appropriated to the Governor's Office of Planning and Research for purposes of implementing Sections 42238.07, 52064, and 52064.5 of the Education Code.

(2) Two billion sixty-seven million one hundred forty thousand dollars (\$2,067,140,000) shall be appropriated to the Superintendent of Public Instruction and shall be allocated pursuant to the calculation in subdivision (b) of Section 42238.03 of the Education Code.

(3) Thirty-two million twenty-one thousand dollars (\$32,021,000) shall be appropriated to the Superintendent of Public Instruction and shall be allocated pursuant to the calculation in subdivision (f) of Section 2575 of the Education Code.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2013–14 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2013–14 fiscal year.

**SEC. 116.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**SEC. 117.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

# **ATTACHMENT**

## **B**

[View the 2018 California Code](#) | [View Previous Versions of the California Code](#)

**2012 California Codes**  
**EDC - Education Code**  
**TITLE 2 - ELEMENTARY AND**  
**SECONDARY EDUCATION [33000 -**  
**64100]**  
**DIVISION 4 - INSTRUCTION AND**  
**SERVICES**  
**PART 28 - GENERAL**  
**INSTRUCTIONAL PROGRAMS**  
**CHAPTER 6.1 - Public Schools**  
**Accountability Act of 1999**  
**ARTICLE 4 - High**  
**Achieving/Improving Schools Program**  
**Section 52056**

**Universal Citation:** CA Educ Code § 52056 (through 2013 Leg Sess)

(a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked by the value of the API in decile categories by grade level of instruction provided

and shall include three categories: elementary, middle, and high school. The schools shall also be ranked by the value of the API when compared to schools with similar characteristics. Commencing in June 2001, the Superintendent of Public Instruction shall also report the target annual growth rates of schools and the actual growth rates attained by the schools. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) All schools shall report their ranking, including a description of the components of the API, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) Following the annual publication of the API and school rankings by the Superintendent of Public Instruction, the governing board of each school district shall discuss the results of the annual ranking at the next regularly scheduled meeting. The governing board is strongly encouraged to include in the discussion an examination by school, grade, and subgroup enumerated by and in accordance with subclause (II) of clause (v) of subparagraph (C) of paragraph (2) of subsection (b) of Section 6311 of Title 20 of the United States Code, of scores on the tests administered pursuant to the Standardized Testing and Reporting (STAR) Program set forth in Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(d) If the average STAR test score of the school is below the 50th percentile, or if the test scores of more than 25 percent of the pupils of a school are below the 50th percentile, the school district governing board may do both of the following:

(1) Conduct an assessment of the reasons for the performance results of the school, by grade.

(2) Adopt an improved performance plan that includes methods determined by the district to have been used by schools with similar pupil populations elsewhere in the district or state and significantly higher pupil scores. If it is deemed not feasible to adopt those methods, the plan shall explain why an alternate approach is preferable. If a school district governing board adopts an improved performance plan, it shall reevaluate the plan at each

future annual meeting described by subdivision (c), until STAR test scores reach a level above those specified in this subdivision.

*(Amended by Stats. 2003, Ch. 45, Sec. 1. Effective January 1, 2004.)*

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**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 11, 2019, I served the:

- **Notice of Complete Mandate Redetermination Request, Schedule for Comments, and Notice of Tentative Hearing Date issued April 11, 2019**
- **Mandate Redetermination Request filed by the Department of Finance on March 8, 2019**

Mandate Redetermination Request, 18-MR-01


*Academic Performance Index (01-TC-22)*

Education Code Sections 44650-44654, 52050-52055.51, 52056-52057, 52058; Statutes 1999-2000x1, Chapter 3; Statutes 1999, Chapter 52; Statutes 2000, Chapters 71, 190, and 695; Statutes 2001, Chapters 159, 745, 749, and 887; California Code of Regulations, Title 5, Sections 1031-1039; Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan 8, 2002); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 11, 2019 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562



# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 4/10/19

**Claim Number:** 18-MR-01

**Matter:** Academic Performance Index (01-TC-22)

**Requester:** Department of Finance

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Edmundo Aguilar**, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguiar@cde.ca.gov

**Amber Alexander**, *Department of Finance*

**Requester Representative/Requester Contact**

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

**Michael Ambrose**, Acting General Counsel, CSBA Director, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

mambrose@csba.org

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Mike Brown**, *School Innovations & Advocacy*  
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762  
Phone: (916) 669-5116  
mikeb@sia-us.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*  
895 La Sierra Drive, Sacramento, CA 95864  
Phone: (916)595-2646  
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-0706  
gcarlos@sco.ca.gov

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**David Cichella**, *California School Management Group*  
3130-C Inland Empire Blvd., Ontario, CA 91764  
Phone: (209) 834-0556  
dcichella@cscentral.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-4112  
Adagan@sco.ca.gov

**Andra Donovan**, *San Diego Unified School District*  
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103  
Phone: (619) 725-5630  
adonovan@sandi.net

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Chris Ferguson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Ferguson@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Ed Hanson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
ed.hanson@dof.ca.gov

**Michael Johnston**, *Clovis Unified School District*  
1450 Herndon Ave, Clovis, CA 93611-0599  
Phone: (559) 327-9000  
michaeljohnston@clovisusd.k12.ca.us

**Doug Kimberly**, Superintendent, *Lake Elsinore Unified School District*  
545 Chaney Street, Lake Elsinore, CA 92530  
Phone: (951) 253-7000  
Doug.Kimberly@leusd.k12.ca.us

**Jennifer Kuhn**, Deputy, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8332  
Jennifer.kuhn@lao.ca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Amy Li**, Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8358  
Amy.Li@lao.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Yazmin Meza**, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Yazmin.meza@dof.ca.gov

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*  
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670  
Phone: (972) 490-9990  
meredithcmiller@maximus.com

**Robert Miyashiro**, *Education Mandated Cost Network*

1121 L Street, Suite 1060, Sacramento, CA 95814  
Phone: (916) 446-7517  
robertm@sscal.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

**Kimberly Nguyen**, *MAXIMUS*  
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670  
Phone: (916) 471-5516  
kimberleynghuyen@maximus.com

**Michelle Nguyen**, *Department of Finance*  
Education Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Michelle.Nguyen@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Keith Petersen**, *SixTen & Associates*  
P.O. Box 340430, Sacramento, CA 95834-0430  
Phone: (916) 419-7093  
kbsixten@aol.com

**Mark Rewolinski**, *MAXIMUS*  
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (949) 440-0845  
markrewolinski@maximus.com

**Sandra Reynolds**, *Reynolds Consulting Group, Inc.*  
P.O. Box 894059, Temecula, CA 92589  
Phone: (951) 303-3034  
sandrareynolds\_30@msn.com

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Steve Shields**, *Shields Consulting Group, Inc.*  
1536 36th Street, Sacramento, CA 95816  
Phone: (916) 454-7310  
steve@shieldscg.com

**Natalie Sidarous**, Chief, *State Controller's Office*

Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717

NSidarous@sco.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

**Kent Stephens**, Chief Financial Officer, *San Juan Unified School District*

Business Services, 3738 Walnut Avenue, Carmichael, CA 95609

Phone: (916) 971-7238

kent.stephens@sanjuan.edu

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Joe.Stephenshaw@sen.ca.gov

**Amy Tang-Paterno**, Educational Fiscal Services Consultant, *California Department of Education*

Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814

Phone: (916) 322-6630

ATangPaterno@cde.ca.gov

**Jolene Tollenaar**, *MGT of America*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913

jolenetollenaar@gmail.com

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328

Brian.Uhler@LAO.CA.GOV

**Maritza Urquiza**, *Department of Finance*

Education Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Maritza.Urquiza@dof.ca.gov

**Marichi Valle**, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126

Phone: (408) 535-6141

mvalle@sjusd.org

**Elena Wilson**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: 916-323-3562

elena.wilson@csm.ca.gov

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 44650-44654, 52050-52055.51, 52056-52057, 52058

Statutes 1999-2000x1, Chapter 3;  
Statutes 1999, Chapter 52; Statutes 2000,  
Chapters 71, 190 and 695; Statutes 2001,  
Chapters 159, 745, 749, and 887

California Code of Regulations, Title 5,  
Sections 1031-1039

Register 00, No. 52 (Dec. 28, 2000); Register  
01, No. 4 (Jan. 26, 2001); Register 01, No. 5  
(Jan. 30, 2001); Register 01, No. 24 (Jun. 11,  
2001); Register 01, No. 31 (Aug. 2, 2001);  
Register 01, No. 46 (Nov. 15, 2001); Register  
02, No. 2 (Jan. 8, 2002)

Filed on June 28, 2002, by

San Juan Unified School District, Claimant

Case No.: 01-TC-22

*Academic Performance Index*

STATEMENT OF DECISION  
PURSUANT TO GOVERNMENT CODE  
SECTION 17500 ET SEQ.; TITLE 2,  
CALIFORNIA CODE OF  
REGULATIONS, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7.

*(Adopted on July 31, 2009)*

### STATEMENT OF DECISION

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on July 31, 2009. Art Palkowitz appeared on behalf of the San Juan Unified School District. Donna Ferebee appeared on behalf of the Department of Finance.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to approve the test claim at the hearing by a vote of 6-0.

#### Summary of Findings

The test claim consists of programs of the Public Schools Accountability Act and the Certificated Staff Performance Incentive Act, and related regulations. The Public Schools Accountability Act contains the following programs: (1) the Academic Performance Index (API), a method of measuring pupil performance, (2) the Governor’s High Achieving/Improving Schools Program, an incentive program that rewards high-performing schools, and (3) the Intermediate

Intervention/Underperforming Schools Program (II/USP), an intervention and sanctions program to assist low-performing schools.<sup>1</sup> The Certificated Staff Performance Incentive Act, in addition to the Governor's Performance Award and the Schoolsite Employees Performance Bonus program reward certificated staff for making improvements in the academic progress of their pupils.

For reasons specified in the analysis, the Commission finds, effective June 25, 1999, that Education Code section 52056, subdivision (c), imposes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and Superintendent of Public Instruction (SPI) school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

The Commission also finds, however, that districts' discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

The Commission also finds that section 52053, subdivisions (d) and (j), do not constitute a reimbursable state mandate because no schools or school districts have participated in the II/USP pursuant to these provisions.

The Commission also finds that all other test claim statutes and regulations do not constitute a reimbursable state-mandated program because they are either voluntary or are downstream of a voluntary activity.

## **BACKGROUND**

This test claim alleges activities based on the Public Schools Accountability Act,<sup>2</sup> the Certificated Staff Performance Incentive Act,<sup>3</sup> and related statutes<sup>4</sup> and regulations.<sup>5</sup>

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<sup>1</sup> Education Code section 52051 et seq..

<sup>2</sup> Statutes 1999-2000x1 chapter 3; Education Code section 52050 et seq.. The Public Schools Accountability Act was effective June 25, 1999, because statutes enacted in a special session of the Legislature are not effective until the 91st day after the adjournment of the session at which they are passed. (Cal. Const. art. IV, § 8 (c)(1)).

<sup>3</sup> Statutes 1999, chapter 52; Education Code section 44650 et seq.

<sup>4</sup> Statutes 2000, chapter 71; section 40, uncodified.

<sup>5</sup> California Code of Regulations, title 5, sections 1031-1039. The regulations implement the Governor's Performance Award Program of the Public Schools Accountability Act, as well as the Certificated Staff Performance Incentive Act.

The Public Schools Accountability Act consists of the following programs: (1) the Academic Performance Index (API), a method of measuring pupil performance; (2) the Governor’s High Achieving/Improving Schools Program, an incentive program that rewards high-performing schools; and (3) the Intermediate Intervention/ Underperforming Schools Program (II/USP), an intervention and sanctions program to assist low-performing schools.<sup>6</sup>

One of the legislative findings of the Public Schools Accountability Act states: “The statewide accountability system must include rewards that recognize high achieving schools as well as interventions and, ultimately, sanctions for schools that are continuously low performing.”<sup>7</sup>

The Certificated Staff Performance Incentive Act, in addition to the Governor’s Performance Award and the Schoolsite Employees Performance Bonus program that the claimant also pled, reward certificated staff for making improvements in the academic progress of pupils.

### Test Claim Statutes

**Academic Performance Index (Ed. Code, §§ 52050 – 52052.5):** The purpose of the Academic Performance Index (API) is to “measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.”<sup>8</sup> A California Department of Education’s (CDE) publication describes the API as follows:

A school’s API is a number that ranges from 200 to 1000 and is calculated from the results for each school’s students on statewide tests. The state has set 800 as the API target for all schools to meet. Schools that fall short of 800 are required to meet annual growth targets until that goal is achieved. API targets vary for each school.<sup>9</sup>

The API is calculated annually for each school using a variety of indicators that are reported to CDE, including but not limited to the results of the STAR tests,<sup>10</sup> and the High School Exit Exam.<sup>11</sup> Attendance rates for pupils in elementary schools, middle schools, and secondary

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<sup>6</sup> Education Code section 52051.

<sup>7</sup> Education Code section 52050.5, subdivision (i). All references herein are to the Education Code unless otherwise indicated.

<sup>8</sup> Education Code section 52052, subdivision (a)(1).

<sup>9</sup> California Department of Education “Parent and Guardian Guide to California’s 2008-09 Accountability Progress Reporting System.” April 2009. See <<http://www.cde.ca.gov/ta/ac/ap/documents/parentguide09.pdf>> as of May 4, 2009.

<sup>10</sup> The Standardized Testing and Reporting Program, or STAR, consists of four testing programs: the (1) California Standards Tests; (2) The California Achievement Tests, Sixth Edition Survey (a national norm referenced achievement test, formerly the Stanford 9); (3) Spanish Assessment of Basic Education, Second Edition; and (4) the California Alternative Performance Assessment for pupils with significant cognitive disabilities that prevent them from taking the other tests.

<sup>11</sup> Education Code section 52052, subdivision (b).



schools, and the graduation rates for pupils in secondary schools is also used.<sup>12</sup> Pupil data is disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group.<sup>13</sup>

The Superintendent of Public Instruction (SPI) is required to develop, and the State Board of Education (SBE) to adopt, expected annual percentage growth targets for all schools based on their API baseline score measured from the previous year. The minimum growth target is 5 percent of the difference between the school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target need only maintain their API score above the statewide API performance target. To meet its growth target, a school must demonstrate that all ethnic and socioeconomically disadvantaged subgroups, as defined, are making comparable improvement.<sup>14</sup>

The API is used to measure the progress of schools selected for participation in the II/USP (pursuant to § 52053), and rank all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to section 52056.<sup>15</sup>

Originally, the SPI was to create an alternative accountability system for schools with less than 100 pupils, but those schools now receive an API with an asterisk to indicate less statistical certainty than an API based on 100 or more test scores.<sup>16</sup> These small schools are eligible to participate in the Governor's Performance Awards Program and in the II/USP,<sup>17</sup> both of which are discussed below. The SPI is required to develop an alternative accountability system for schools under the jurisdiction of a county board of education, or county superintendent of schools, community day schools, nonpublic, nonsectarian schools, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools.<sup>18</sup> Section 52052.5 requires the SPI to establish an advisory committee to advise the SPI and SBE on "all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming School Program and the High Achieving/Improving Schools Program."<sup>19</sup>

The API is also used to meet federal "Adequate Yearly Progress" requirements under the No Child Left Behind Act of 2001 (NCLB). NCLB requires, as a condition of funding, all states to develop and implement a single, statewide accountability system that will ensure all public schools make Adequate Yearly Progress toward the federal goal that all pupils perform at the

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<sup>12</sup> Education Code section 52052, subdivision (a)(4). Attendance information for certificated school personnel was deleted from the API by Statutes 2004, chapter 915 (SB 722).

<sup>13</sup> Education Code section 52052, subdivision (a)(4)(B).

<sup>14</sup> Education Code section 52052, subdivision (c) (Stats. 2001, ch. 887).

<sup>15</sup> Education Code section 52052, subdivision (e).

<sup>16</sup> Education Code section 52052, subdivision (f)(1).

<sup>17</sup> Education Code section 52052.2.

<sup>18</sup> Education Code section 52052, subdivision (h).

<sup>19</sup> Education Code section 52052.5.

proficient or above level in English-language arts and mathematics by 2014. Under Adequate Yearly Progress requirements, schools and local educational agencies<sup>20</sup> are required to meet criteria in four areas: participation rate, percent proficient, API as an additional indicator, and graduation rate (if applicable).<sup>21</sup>

**Intermediate Intervention/Underperforming Schools Program (Ed. Code, §§ 52053 – 52055.51 & 52056.5 & 52058):** The purpose of the II/USP is to provide schools in decile ranks 1-5 (with scores in the lower 50% on STAR tests) an opportunity to apply for funding to improve pupil achievement in exchange for greater accountability.<sup>22</sup> The SPI, with approval from the SBE, invites schools that scored below the 50th percentile on both the spring 1998 and spring 1999 STAR tests to participate in the program. “A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.”<sup>23</sup> The program is limited to 430 schools, no more than 301 elementary schools, 78 middle schools, and 52 high schools.<sup>24</sup>

The test claim statutes provide three ways that schools may be selected to participate in the II/USP without applying to CDE. Subdivision (d) of section 52053 requires the SPI to randomly select eligible schools to participate if fewer than the number of schools in any grade level category apply to the program. Similarly, subdivision (j) states that if fewer schools apply for participation than can be funded, the SPI with the approval of the SBE shall randomly select the balance of schools from schools eligible to participate that did not apply. Also, section 52056.5 authorizes the SPI to make a school subject to the II/USP if the school fails to meet annual state growth targets established pursuant to Section 52052.

Schools districts with schools in the II/USP must choose between contracting with an external evaluator or contracting with an entity that has proven and successful expertise specific to challenges in low-performing schools.<sup>25</sup> The external evaluator or entity has a long list of specified duties, including developing an action plan with the school and consulting employee organizations. Schools that participate receive state grants, some of which may be from federal funds (Pub. Law 105-78).<sup>26</sup> The grants require a school district match.<sup>27</sup>

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<sup>20</sup> Local educational agencies (LEAs) are school districts and county offices of education.

<sup>21</sup> California Department of Education, “2007 Growth Academic Performance Index Report, Information Guide” August 2007, See <<http://www.cde.ca.gov/ta/ac/ap/documents/infoguide07g.pdf>> as of May 4, 2009.

<sup>22</sup> California State Board of Education Policy, May 2004. See <<http://www.cde.ca.gov/re/lr/wr/documents/policy4iisp.doc>> as of April 27, 2009.

<sup>23</sup> Education Code section 52053, subdivision (a).

<sup>24</sup> Education Code section 52053, subdivision (b).

<sup>25</sup> Education Code section 52054, subdivision (a) (Stats. 2001, ch. 749).

<sup>26</sup> Education Code section 52053, subdivision (f).

<sup>27</sup> Education Code section 52054.5.

If a school has not met its growth targets each year and has failed to show significant growth 24 months after receipt of funding, it is deemed a state-monitored school (formerly a low-performing school). The SPI may take one or more actions with regard to a state-monitored school, including reorganizing or closing it.<sup>28</sup>

**High Achieving/Improving Schools Program (Ed. Code, § 52056, except subdivision (b)):**

This program provides monetary and non-monetary rewards, pursuant to a Governor's Performance Award Program, to schools that meet or exceed performance targets or demonstrate high achievement.<sup>29</sup> The SPI, with approval of the SBE, ranks all public schools based on the API in decile categories. The SPI also reports the target annual growth rates of schools and the actual growth rates attained. Schools are also ranked by API compared with schools that have similar characteristics. The SPI publishes these rankings annually on the Internet.<sup>30</sup>

According to section 52056, subdivision (b), "schools shall report their ranking, including a description of the components of the API, in their annual school accountability report card pursuant to Section 33126 and 35256." This provision was severed from this test claim in August 2007 and was renamed *School Accountability Report Cards IV*. Subdivision (c) of section 52056 states that the school district governing board "shall discuss the results of the annual ranking" at a regularly scheduled meeting.

**Governor's Performance Award Program (Ed. Code, § 52057; Cal. Code Regs., tit. 5, §§ 1031–1033, 1036, 1038-1039):**

This program is under article 4, the High Achieving/Improving Schools Program, of chapter 6.1, the Public School Accountability Act. To be eligible for the Governor's Performance Awards, schools must "meet or exceed API performance growth targets ... and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools."<sup>31</sup> All schools, including those in the II/USP may participate in the Governor's Performance Award Program. The monetary awards, made available on either a per-pupil or per-school basis, may not exceed \$150 per pupil who receive a score on the STAR tests, and are subject to budget act appropriation.<sup>32</sup> The SPI, with approval of the SBE, may also establish nonmonetary awards for schools, as specified.<sup>33</sup> Schools that are eligible for performance awards may request that the SBE waive all code sections or any part of code sections, or any regulations controlling specified education programs, for categorical programs, with some specified exceptions.<sup>34</sup>

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<sup>28</sup> Education Code section 52055.5, subdivision (b)(3). The statute states that the SPI "shall do one or more of the following with respect to a state-monitored school."

<sup>29</sup> Education Code section 52057, subdivision (a).

<sup>30</sup> Education Code section 52056, subdivision (a).

<sup>31</sup> Education Code section 52057, subdivision (a).

<sup>32</sup> Education Code section 52057, subdivision (b).

<sup>33</sup> Education Code section 52057, subdivision (c).

<sup>34</sup> Education Code section 52057, subdivisions (d) & (e).

Title 5 of the California Code of Regulations provide the regulatory intent (§ 1031) and describe general eligibility criteria (§ 1032) and award funding criteria (§ 1033) for the Governor’s Performance Award. It also states the waiver deadline (§ 1036), and exemption from school district, county, or school indirect charges or other administrative charges (§ 1038), and that use of funds is decided by the school site governance team/school site council (§ 1039).<sup>35</sup>

**Schoolsite Employees Performance Bonus Program (Stats. 2000, ch. 71; Cal.Code Regs., tit. 5, §§ 1031–1033, 1036- 1038):** This uncodified program was established in Statutes 2000, chapter 71, section 40, with an appropriation of \$350 million to the State School Fund for allocation on a one-time basis by the SPI to school districts, county offices of education and charter schools. It requires school districts, county offices of education and charter schools, “as a condition of receiving funds pursuant to this section” upon request from the SPI, to certify the number of full-time equivalent employees at each schoolsite under their jurisdiction that are eligible for awards under the Governor’s Performance Award Program. Schools use 50% of the award for one-time bonuses to employees, and the other 50% for any one-time purpose.

The title 5 regulations adopted for the Governor’s Performance Award program also applied to the Schoolsite Employees Performance Bonus program until the regulations, as applied to the Schoolsite Employees Performance Bonus, were repealed in January 2002.<sup>36</sup>

**Certificated Staff Performance Incentive Act (Ed. Code, §§ 44650 et seq.; Cal. Code Regs., tit. 5, §§ 1031-1032 & 1034 -1038):** The purpose of this program is to make one-time performance awards to teachers and other certificated staff in underachieving schools, where the academic performance of pupils significantly improves beyond the minimum percentage growth target established by the SPI based on the school’s API. “Any school district or charter school that maintains classes in kindergarten or in any of grades 1 to 12, inclusive, may apply for funding”<sup>37</sup> if it meets the following conditions: (1) the school’s aggregate score on the API must be below the 50th percentile relative to other public schools in the state in the prior year; and (2) the school must meet any other SBE criteria.<sup>38</sup> Maximum awards may not exceed \$25,000 per full-time equivalent certificated staff person.<sup>39</sup>

The SBE criteria are in the title 5 regulations, which states intent to implement the Certificated Staff Performance Incentive Act (§ 1031). The regulations also specify the general (§ 1032) and specific (§ 1034) eligibility criteria for the awards, describe funding distribution (§ 1035) and the waiver deadline (§ 1036), and specify that the awards are not considered compensation when

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<sup>35</sup> Register 00, No. 52 (Dec. 28, 2000). California Code of Regulations, title 5, section 1039, Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>36</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>37</sup> Education Code section 44651, subdivision (a).

<sup>38</sup> Education Code section 44651, subdivision (b).

<sup>39</sup> Education Code section 44650, subdivision (b).

calculating retirement benefits (§ 1037). The regulations also state that this program is not subject to school district, county, or school indirect charges or other administrative charges (§1038).<sup>40</sup>

### Prior Law

The Focus Schools Program was enacted in 1992 (Stats. 1992, ch. 1335) but, according to the bill analysis for the Public Schools Accountability Act, was never implemented because it was never funded.<sup>41</sup> Under the program, the SPI was to designate the schools with the lowest performing pupils, which were to develop a school action plan to improve pupil achievement and were entitled to expert assistance and additional resources to implement the plan. The SPI was to appoint an outside management consultant to assist and, in some circumstances, intervene in the management of schools that fail to improve performance.<sup>42</sup> The Focus Schools program became inoperative, by its own terms, on July 1, 1998, about a year before the Public Schools Accountability Act was enacted.

### **Claimant Position**

Claimant seeks reimbursement based on article XIII B, section 6 of the California Constitution, for the following activities, as stated in its declaration submitted with the test claim:

- A. Establish, periodically update and maintain data gathering proceedings to collect and report data as may be required by the SPI for computation of the API (Ed. Code, § 52052) “This includes, but is not limited to:”
  1. Notifying CDE when circumstances may exist which would invalidate a school’s API (Cal. Code Regs., tit.5, § 1032, subd. (d)).
  2. Upon receipt of a report of STAR testing and demographic data from the CDE, notify the department and the test publisher within 30 days by way of e-mail or writing that there are errors in the STAR testing or demographic data (Cal. Code Regs., tit. 5, § 1032, subd. (j)).
  3. Submit all data corrections to the test publisher in writing or e-mail on or before a deadline specified by the test publisher (Cal. Code Regs., tit. 5, § 1032, subd. (j)).
  4. To the extent current rates are not available to the CDE, to respond to any requests from the CDE for attendance rates for pupils and certificated school personnel for elementary, middle and secondary schools (§ 52052, subd. (a)).

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<sup>40</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>41</sup> The 1992 statute’s stated legislative intent was that funding be provided for the program in future Budget Acts, and that the SPI was only required to implement the provisions in fiscal years in which sufficient funds were appropriated (Sen. Bill No. 171, Stats. 1992, ch. 1335, § 3).

<sup>42</sup> Assembly Committee on Education, Analysis of Senate Bill No. 1 (1999-2000 1st Ex. Sess.) as amended March 4, 1999, page 7.

5. To the extent current rates are not available to the CDE, to respond to any requests from the CDE for graduation rates for pupils in secondary schools (§ 52052, subd. (a)).
  6. To provide the SPI, when required, with data pertaining to high school graduation and attendance rates (§ 52052, subd. (a)).
- B. For schools that are required (under §§ 52053, subd. (j) & 52056.5) to participate in the Immediate Intervention/Underperforming School Program and to the extent funding is unavailable or insufficient:
1. To contract with an external evaluator and appoint a broad-based schoolsite and community team (§ 52054, subd. (a)).
  2. To assist the external evaluator and schoolsite and community team, as requested or required, in the preparation of an action plan (§ 52054, subds. (b)-(i)).
  3. To contribute matching funds to any implementation grant provided (§ 52054.5).
  4. For those which fail to meet their annual short-term growth targets within 12 months following receipt of funding, to hold a public hearing and to consult with the external evaluator and the schoolsite and community team in choosing interventions in order to continue to implement the action plan (§ 52055).
  5. For schools that may be deemed low-performing schools under § 52055.5, when required by the SPI, to enter into a contract with a school assistance and intervention team (contracting schools) (§ 52055.51).
  6. For contracting schools to provide support and assistance to the team at the targeted schoolsites (§ 52055.51).
  7. For contracting schools to adopt the team's recommendations at a regularly scheduled meeting of the governing board and to submit the recommendations to the SPI and SBE (§ 52055.51).
  8. For contracting schools, no less than three times during the year, to present the team with data regarding progress toward the goals established by the team, and to present the data to the governing board, the SPI, and SBE (§ 52055.51).
  9. By November 30 after the first full year of implementation, and every November 30 thereafter, to submit an evaluation to the SPI of the impact, costs, and benefits of the program, and a report on whether the schools have, or have not, met their program growth targets (§ 52058, subd. (a)).
- C. For school districts and charter schools (not county offices of education) to establish, periodically update and maintain employee payroll records to receive, administer and distribute award monies to staff, as part of the one-time Certificated Staff Performance Incentive Act (§ 44653).
- D. Before January 8, 2002, for each school district and charter school (not county offices of education) to complete an application on behalf of its eligible schools to participate in the Certificated Staff Performance Incentive Act which shall include: (1) the number of eligible schools, (2) certification that the data used in the API calculations is accurate, and (3) a list of

certificated staff positions on a full-time equivalent basis at each eligible school. After January 8, 2002, the application shall certify: (a) that the data used in the API calculations from the schools is accurate, and (b) to report the number of certificated positions on an FTE basis at each of the eligible schools (§ 44651, Cal. Code Regs., tit. 5, § 1034).

- E. When an award is received, school districts and charter schools to negotiate with the exclusive representative of the bargaining unit of the teachers and other certificated staff to determine how the funds are to be distributed (§ 44653).
- F. In case there is no agreement on disbursement, for school districts and charter schools to calculate and distribute the award amounts as a percentage of base salaries that is determined by a specified formula (§ 44653).
- G. When requested by the SPI, to certify the number of FTE employees for the period requested in the creation of the one-time API Schoolsite Employees Performance Bonus, (Stats. 2000, ch. 71, § 40).
- H. For school districts, charter schools, and county offices of education, to establish and periodically update and maintain employee payroll records to receive, administer and distribute award moneys to staff as part of the API Schoolsite Employees Performance Bonus (Stats. 2000, ch. 71, § 40).
- I. Upon receipt of an award from the Governor's Performance Award Program and schoolsite portion of the API Schoolsite Employees Performance Bonus, to consult with the existing school site governance team/school site council to decide the use of the award and have a distribution plan ratified by the governing board (Stats. 2000, ch. 71; Cal. Code Regs., tit. 5, § 1039).
- J. The administrative costs to calculate individual salary awards, to determine and locate recipients, and to deliver those salary awards (§ 44654, Cal. Code Regs., tit.5, § 1038).
- K. Compensation-driven benefit costs (employer's share of Medicare, unemployment insurance, worker's compensation) incurred as a result of individual salary awards made pursuant to the Governor's High Achieving Schools' Program, the Certificated Staff Performance Incentive Act, or the API Schoolsite Employees Performance Bonus Program (§ 44654, Cal. Code Regs., tit. 5, § 1038).

Claimant filed comments in November 2002, rebutting those of the Department of Finance and CDE and arguing that their comments should be stricken from the record because they do not comply with section 1183.02, subdivision (d) of the Commission's regulations. This regulation requires that assertions or representations of fact be supported by documentary evidence submitted with the state agency's response, and authenticated by declarations under penalty of perjury.<sup>43</sup> Claimant also made substantive comments that are discussed in the analysis below.

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<sup>43</sup> The existence of a reimbursable state mandate is a question of law. (*County of San Diego v. State of California (County of San Diego)* (1997) 15 Cal.4th 68, 89.) State agency or other comments are not relied on by the Commission, which reaches conclusions based on independent analysis of the test claim statutes and relevant facts supported in the record, and weighs the evidence accordingly.

Claimant also filed comments on the draft staff analysis in November 2007 on section 1032, subdivision (d) of the title 5 regulations and on the II/USP, both of which are discussed below.

Claimant filed additional comments on the revised draft staff analysis in June 2009, asserting that practical compulsion exists to participate in the II/USP, the High Achieving/Improving Schools Program, and the Governor's Performance Award Program. Claimant also argues that denying a test claim on the basis of not incurring reimbursable costs is improper and lacks legal authority.

### **State Agency Positions**

**Department of Education:** In comments dated August 7, 2002, the CDE discusses each program separately, arguing that none of them is reimbursable. As to the API, CDE states in part:

The API is calculated from indicators currently reported to the CDE as part of the Standardized Testing and Reporting Program (STAR). Part III, Section 1.A of the Test Claim alleges reimbursable costs for activities which already receive funding under Title 5, California Code of Regulations, Division 1, Chapter 2 Pupils, Subchapter 3.75 Standardized Testing and Reporting Program. The Budget provides \$65 million for STAR administration, continued development, scoring, error correction, and apportionment.

CDE alleges that the other programs are not reimbursable because they are voluntary and are already funded.

For the High Achieving Schools Program or Governor's Performance Awards, CDE states it is not a mandated program. Eligible schools that meet or exceed API growth targets and testing participation rates are notified that they will receive the award, but districts have the option of turning down these funds (although CDE admits that this option was not explicitly stated to school districts). The funding for this program is to be decided by existing School Site Councils, and "any additional costs not covered by awards due to decisions made by School Site Councils are due to discretionary actions.

In comments submitted in September 2007 responding to a question from Commission staff, CDE reiterates that the II/USP is a voluntary program, and that the statutes authorizing or requiring the SPI to select schools for participation in the II/USP have not been used.

**Department of Finance:** Finance, in its October 2002 comments, also argues that the test claim is not reimbursable. Finance asserts that the activities are discretionary because they stem from voluntary programs, and that they are already funded.

In comments submitted in November 2007 on the draft staff analysis, Finance disagrees with both activities that staff found reimbursable. As to the school board discussion of the API annual rankings (§ 52056, subd. (c)), Finance asserts that it is not reimbursable due to Government Code section 17556, subdivision (f), which prohibits finding a reimbursable mandate if "the statute ... imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in, a ballot measure approved by the voters in a statewide or local election." Finance argues that the governing board discussion of the annual rankings is within the scope of Proposition 59, that provides that the people have the right to access to information concerning



the conduct of the people’s business and that the meetings of public bodies are open to public scrutiny.

Proposition 59 was discussed by the Third District Court of Appeal in *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, and is discussed below.

### **Interested Party Comments**

San Diego Unified School District (SDUSD) filed comments on the draft staff analysis in November 2007, arguing that California Code of Regulations, title 5, section 1032, subdivision (d), constitutes a state-mandated program to notify CDE of errors in the API, as discussed below.

## **COMMISSION FINDINGS**

The courts have found that article XIII B, section 6 of the California Constitution<sup>44</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>45</sup> “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>46</sup> A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.<sup>47</sup>

In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.<sup>48</sup>

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a

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<sup>44</sup> Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>45</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>46</sup> *County of San Diego, supra*, 15 Cal.4th 68, 81.

<sup>47</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>48</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>49</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.<sup>50</sup> A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”<sup>51</sup>

Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>52</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>53</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>54</sup>

**Issue 1: Are the test claim statutes and regulations subject to article XIII B, section 6 of the California Constitution?**

**A. Do the test claim statutes and regulations impose state-mandated activities on school districts within the meaning of article XIII B, section 6?**

**Academic Performance Index (Ed. Code, §§ 52050 – 52052.5):** As indicated above, the purpose of the API is to measure the performance of schools and to demonstrate comparable improvement in academic achievement.

Section 52020 names chapter 6.1 as the “Public Schools Accountability Act of 1999,” and section 52050.5 contains legislative findings and declarations. Section 52051 states that the Public School Accountability program is established and consists of the API, the II/USP and the Governor’s High Achieving/Improving Schools Program. Section 52051.5 states that all references to schools in chapter 6.1 shall include charter schools. Section 52052 describes the API’s purpose, indicators, pupil subgroups, included test scores, growth targets, performance

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<sup>49</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.)

<sup>50</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

<sup>51</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

<sup>52</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>53</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>54</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

target, uses, and alternative accountability systems. Section 52052.3 indicates which pupil test scores are included in the API.<sup>55</sup> Section 52052.5 requires the SPI to form an advisory committee to advise the SPI and SBE on matters related to the API, the II/USP and the Governor's High Achieving/Improving Schools Program.

Claimant alleges establishing, periodically updating and maintaining data gathering procedures to collect and report data as may be required by the SPI for computation of the API, as follows:

- To the extent current rates are not available to the CDE, to respond to any requests from the CDE for attendance rates for pupils and certificated school personnel for elementary, middle and secondary schools (§ 52052, subd. (a));
- To provide the SPI, when required, with data pertaining to high school ... attendance rates (§ 52052, subd. (a)).

CDE and Finance commented, in August and October 2002, that the API is calculated from indicators currently reported to the CDE as part of the STAR Program. CDE's August 2002 comments stated that the test claim alleges activities that already receive funding under the STAR program, including error correction, and that test claim 97-TC-23 "will provide reimbursement for reimbursable costs not covered by the STAR apportionment."<sup>56</sup>

Reporting attendance and graduation rates (Ed. Code, §§ 52050 – 52052.5): Section 52052, subdivision (a)(3), as of Statutes 2001, chapter 887 (the last amendment claimant pled)<sup>57</sup> states that the API "shall consist of a variety of indicators *currently reported to the* State Department of Education, including, but not limited to ... attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools."<sup>58</sup> [Emphasis added.] Thus, although the statute states that the API shall consist of indicators currently reported to CDE, subdivisions (a)(3)(B) and (C) of section 52052 (Stats. 2001, ch. 887) state:

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

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<sup>55</sup> Section 52052.3 was repealed by Statutes 2002, chapter 1035, which is not included in this test claim so the Commission makes no findings on it.

<sup>56</sup> The Commission's 2005 reconsideration of the decision in test claim 97-TC-23 (04-RL-9723-01), found that activities that related to the national norm referenced test (CAT/6) are reimbursable, and are subject to offsets for state STAR funding and federal Title VI funding. But Statutes 2008, chapter 757, effective September 30, 2008, deleted the CAT/6 mandate in Education Code section 60640, subdivision (b), thus ending the state-mandated program for administration of the CAT/6 tests in grades 3 and 7.

<sup>57</sup> Section 52052 has been further amended by Statutes 2002, chapter 1035, Statutes 2004, chapter 914, Statutes 2004, chapter 915, Statutes 2005, chapter 639, Statutes 2006, chapter 538, Statutes 2006, chapter 743, Statutes 2007, chapter 130, Statutes 2008, chapter 710, and Statutes 2008, chapter 757. The Commission makes no findings on these later amendments.

<sup>58</sup> Attendance rates for certificated school personnel was removed by Statutes 2004, chapter 915.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.<sup>59</sup>

In its *Analysis of the 2001-02 Budget Bill*, the Office of the Legislative Analyst stated: “The SDE [State Dept. of Education] has not included graduation rates, student attendance nor teacher attendance in the API because it is currently not able to collect accurate school-level data on these outcome measures.”<sup>60</sup> And the CDE’s current description of the API does not indicate that pupil or teacher attendance or graduation rates are included in it.<sup>61</sup> Moreover, there is no evidence in the record that CDE has ever required schools to report attendance information or graduation rates, or that they are currently incorporated into the API.

The Commission finds that section 52052 does not expressly require schools to report attendance data for pupils or certificated personnel,<sup>62</sup> or graduation rates to CDE for the API, so doing so does not impose a state mandate within the meaning of article XIII B, section 6.

The Commission also finds that the remaining sections, 52020 (title of act), 52050.5 (legislative findings and declarations), 52051 (programs within the act), 52051.5 (charter schools included), 52052.5 (advisory committee) and former section 52052.3 (test scores in API), do not require any activities of school districts, so they do not impose state-mandated activities within the meaning of article XIII B, section 6.

**Discuss the API ranking:** Subdivision (c) of section 52056 requires the governing board of each school district, after the annual publication of the API and SPI school rankings, to “discuss the results of the annual ranking at the next regularly scheduled meeting.” (As of Stats. 2000, ch. 695.) Because this statute uses the word “shall,”<sup>63</sup> the Commission finds that section 52056, subdivision (c), is a mandate on a school district governing board to discuss its API annual

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<sup>59</sup> Education Code section 52052, subdivision (a) (Stats. 1999-2000x1, ch. 3). The second sentence was removed by Statutes 2001, chapter 745, effective October 12, 2001, but the first sentence remains in subdivision (a)(4)(C), with a nonsubstantive amendment made by Statutes 2008, chapter 757.

<sup>60</sup> Office of the Legislative Analyst, “Analysis of the 2001-02 Budget Bill.” See <[http://www.lao.ca.gov/analysis\\_2001/education/ed\\_10\\_sch\\_acct\\_anl01.htm](http://www.lao.ca.gov/analysis_2001/education/ed_10_sch_acct_anl01.htm)> as of May 4, 2009.

<sup>61</sup> California Department of Education, “Parent and Guardian Guide to California’s 2008-09 Accountability Progress Reporting System.” April 2009. See <<http://www.cde.ca.gov/ta/ac/ap/documents/parentguide09.pdf>> as of May 4, 2009.

<sup>62</sup> Attendance information for certificated school personnel was deleted from section 52052 by Statutes 2004, chapter 915 (Sen. Bill No. 722) upon which the Commission makes no finding because it was not pled.

<sup>63</sup> Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

ranking at the next regularly scheduled meeting following the annual API publication by the SPI.<sup>64</sup>

**Intermediate Intervention/Underperforming Schools Program (Ed. Code, §§ 52053-52055.51 & 52056.5 & 52058):** As indicated above, the SPI with approval from the SBE, invites schools that scored below the 50th percentile on the Spring 1998 and Spring 1999 administrations of the STAR tests to participate in the II/USP, the purpose of which is to provide those schools with the opportunity to apply for funding to improve pupil achievement in exchange for greater accountability.

Section 52053 establishes the program and how schools are selected. Section 52053.5 describes qualifications for external evaluators, and 52054 concerns school contracts with and duties of external evaluators, including developing an action plan with specified contents. Section 52054.3 provides the option to use an existing plan instead of developing an action plan, and section 52054.5 details the grants available for the II/USP, including a local school district

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<sup>64</sup> Although the Commission makes no finding on it because it was not pled by claimant, section 52056, subdivision (c) was amended, and a new (d) was added by Statutes 2003, chapter 45, as follows:

(c) The governing board is strongly encouraged to include in the discussion an examination by school, grade, and subgroup enumerated by and in accordance with subclause (II) of clause (v) of subparagraph (C) of paragraph (2) of subsection (b) of Section 6311 of Title 20 of the United States Code, of scores on the tests administered pursuant to the Standardized Testing and Reporting (STAR) Program set forth in Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(d) If the average STAR test score of the school is below the 50th percentile, or if the test scores of more than 25 percent of the pupils of a school are below the 50th percentile, the school district governing board may do both of the following:

(1) Conduct an assessment of the reasons for the performance results of the school, by grade.

(2) Adopt an improved performance plan that includes methods determined by the district to have been used by schools with similar pupil populations elsewhere in the district or state and significantly higher pupil scores. If it is deemed not feasible to adopt those methods, the plan shall explain why an alternate approach is preferable. If a school district governing board adopts an improved performance plan, it shall reevaluate the plan at each future annual meeting described by subdivision (c), until STAR test scores reach a level above those specified in this subdivision.

The federal law cited in subdivision (c) above is the definition of “adequate yearly progress” that “(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following ... (II) The achievement of (aa) economically disadvantaged students; (bb) students from major racial and ethnic groups; (cc) students with disabilities; and (dd) students with limited English proficiency;”

matching requirement. Section 52055 requires schools that have not met their growth targets<sup>65</sup> within 12 months after receiving funding to hold public hearings and, after consulting specified groups, choose from a range of interventions. Section 52055.5 states the fate of schools that, 24 months after receiving funding, have not met their growth targets. If the school is making substantial progress, it may participate in the program for an additional year. If the school is not making substantial progress, it is deemed a state-monitored school (formerly a low-performing school) and the SPI must assume the legal rights, duties and powers of the governing board and reassign the principal. The SPI must also take other action, to include such options as reorganizing or closing the school. Section 52055.51 authorizes the SPI to require the school to contract with a school assistance and intervention team instead of taking action as a result of the school's state-monitored school status in section 52055.5, subdivision (b). Section 52056.5 authorizes the SPI to make schools that fail to meet annual state growth targets subject to the II/USP. Section 52058 requires school districts with schools participating in the II/USP to submit evaluation reports, as specified.

Claimant pleads the following activities under the II/USP, “to the extent funding is unavailable or insufficient.”

- (1) Contracting with an external evaluator and appointing a broad-based schoolsite and community team (§ 52054, subd. (a));
- (2) Assisting the external evaluator and schoolsite and community team in preparing the plan (§ 52054, subs. (b)-(i));
- (3) Contributing matching funds to any implementation grant provided (§ 52054.5);
- (4) Holding a public hearing and consulting with external evaluator and schoolsite and community team in choosing interventions if school fails to meet its annual short-term growth target within 12 months (§ 52055);
- (5) Contracting with a school assistance and intervention team if the school is deemed a low-performing school, as required by the SPI (§ 52055.51), and for contracting schools to do the following:
  - a. Provide support and assistance to the team at targeted schoolsites (§ 52055.51);
  - b. Adopt the team's recommendations at a regularly scheduled meeting of the governing board and to submit the recommendations to the SPI and SBE (§ 52055.51); and
  - c. No less than three times during the year, present the team with data regarding progress toward the goals established by the team, and to present the data to the governing board, the SPI and SBE (§ 52055.51).
- (6) By November 30 after the first full year of implementation, and every November 30 thereafter, to submit an evaluation to the SPI of the impact, costs, and benefits of the program and report on whether schools have met their program growth targets (§ 52058, subd. (a)).

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<sup>65</sup> Growth targets are selected by the SPI based on the previous year's API (Ed. Code, § 52052, subs. (c) & (d)).

CDE, in its August 2002 comments, states that the II/USP is not mandated, but is discretionary, so all the activities associated with the election by the district to be in the program are not mandated. Finance also states that the program is voluntary in its October 2002 comments.

The first statute establishing the program states: “the Superintendent of Public Instruction, with the approval of the State Board of Education, *shall invite* schools that scored below the 50th percentile on the achievement tests ... to participate in the ... Program.”<sup>66</sup> [Emphasis added.] The program is limited to 430 schools, no more than 301 elementary schools, 78 middle schools, and 52 high schools.<sup>67</sup> Nothing in the statute requires schools to accept the invitation from CDE. Therefore, based on the plain language of section 52053, subdivision (a) (which describes eligibility for the II/USP), it does not legally compel the school or the school district to participate in the program.

In the *Kern High School Dist.* case,<sup>68</sup> the California Supreme Court stated, “if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district’s obligation to comply with the notice and agenda requirement related to that program does not constitute a reimbursable mandate.”<sup>69</sup> Applying the reasoning of *Kern*, the downstream activities pled by claimant for participating in the II/USP are not state mandates because program participation is voluntary. Since participation is at the discretion of the school district, the Commission finds there is no legal compulsion to implement it.

Claimant, in comments submitted in November 2002, states that the California Supreme Court, in *City of Sacramento v. State of California* has held that:

[T]he determination of whether a program is truly voluntary depends upon (1) the nature and purpose of the program, (2) whether the program’s design evidences an intent to coerce, (3) the penalties assessed for non-participation, (4) the legal and other practical consequences of non participation.<sup>70</sup>

According to claimant, “the concept of state mandate is sufficiently broad to include situations where the local school district has no reasonable alternative to the state scheme or no true choice but to participate in it.” Claimant argues it would be fiscally irresponsible to turn down the state funds, since district employees and their “exclusive representatives” (unions) know about the program. Claimant reiterates this in its June 2009 comments on the draft staff analysis.

The Commission disagrees. Although the Supreme Court in *Kern* stated that state mandates could be found in cases of practical compulsion on the local entity, it described this as the statute imposing “certain and severe penalties such as double taxation or other draconian

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<sup>66</sup> Education Code section 52053, subdivision (a).

<sup>67</sup> *Ibid.*

<sup>68</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727.

<sup>69</sup> *Id.* at page 743. Emphasis in original.

<sup>70</sup> Keith B. Petersen, claimant comments submitted November 5, 2002. Citing *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76.

consequences”<sup>71</sup> for not participating in the programs. The court also described practical compulsion as “a substantial penalty (independent of the program funds at issue) for not complying with the statute.”<sup>72</sup>

Here, the only *certain* consequence of a school district not participating in the II/USP is losing the program funds at issue. There is nothing in the record to show that the school districts are practically compelled to participate in the II/USP program.<sup>73</sup> There are no certain and severe penalties, or draconian consequences in the statute or the record for nonparticipation. Nor is there a “substantial penalty independent of the program funds at issue” for not complying with the II/USP statute.<sup>74</sup>

In its June 2009 comments on the draft staff analysis, claimant states as follows:

[T]he potential consequence of not participating in the [II/USP] ... program is that a state-monitored school will be established and the SPI must assume the legal rights, duties and powers of the governing board and reassign the principal. The SPI must also take other action, to include such options as reorganizing or closing the school.

The Commission disagrees. First, the term “state-monitored school” applies to a school already in the II/USP that has not met its growth targets each year and has failed to show significant growth, as determined by the state board, after 24 months after receipt of funding under the II/USP (§ 52055.5, subd. (b)). The Commission finds no evidence of “state-monitored schools” existing outside of this definition in the II/USP. Second, the claimant’s consequences were proposed to *potentially* apply to an underperforming school, so they are not *certain* consequences as required for a finding of practical compulsion. And third, even if the consequence were to apply to an underperforming school, they would not be for non-participation in the II/USP. Rather, the consequences would be for lack of performance, which in turn, may make a school eligible for the II/USP. In short, there is no practical compulsion to participate in the II/USP.

Therefore, in the absence of both legal and practical compulsion to participate, the Commission finds that a school’s voluntary participation in the II/USP (Ed. Code, §§ 52053 (except subds. (d) & (j)) 52053.5-52055.51 & 52056.5 & 52058) is not a state-mandated program within the meaning of article XIII B, section 6. This means the various downstream activities are not mandated, including contracting with an external evaluator or entity with proven expertise specific to challenges in low-performing schools, for schools that participate in the II/USP on their own application.

Claimant’s November 2002 comments state that the test claim alleges the “detailed list of mandated duties for those schools who are required, pursuant to Education Code Sections 52053

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<sup>71</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 751.

<sup>72</sup> *Id.* at p. 731.

<sup>73</sup> *Cf. Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th, 1355, 1366.

<sup>74</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 731.



(j) and/or 52056.5, to participate in the Immediate Intervention/Underperforming School Program.”

Section 52056.5 authorizes the SPI to make a school subject to the II/USP if the school fails to meet annual state growth targets established pursuant to section 52052. On its face, this section does not require a school district activity.<sup>75</sup> Therefore, the Commission finds that section 52056.5 is not a state mandate within the meaning of article XIII B, section 6.

Two provisions, however, authorize the SPI to select a school to participate in the II/USP without the school applying. Section 52053, subdivision (d), requires the SPI to randomly select schools to participate if fewer than the eligible number of schools in any grade level category apply to the program. Similarly, if fewer schools apply than can be funded, the SPI is required to randomly select schools to participate (§ 52053, subd. (j)).

Section 52053, subdivisions (i) and (l), indicate that schools selected to participate in the II/USP receive planning grants of \$50,000:

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (l) below. [¶]...[¶]

(l) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to Section 2 of Chapter 3 of the Statutes of 1999, First Extraordinary Session, of fifty thousand dollars (\$50,000).

In a September 12, 2007 reply to a request for information from Commission staff, CDE commented: “schools have participated in II/USP strictly on a voluntary basis. None of the participating schools were selected by the State Superintendent of Public Instruction as prescribed in Education Code sections 52053 (d) and (j), and 52056.5.”

Subdivision (m) of section 52053 states that “schools selected for participation in the program shall be notified by the [SPI] ... no later than October 15 of each year.” There is no evidence in the record (such as a letter or executive order from the SPI) of any notification to a school that has been selected involuntarily to participate in the II/USP.

Because subdivisions (d) and (j) do not on their face impose a mandate on school districts, and no executive order has been issued pursuant to them, the Commission finds that section 52053, subdivisions (d) and (j), does not impose a state mandate within the meaning of article XIII B, section 6.

Claimant, in its November 2007 comments on the draft staff analysis, asserts that the alleged fact that no districts participated involuntarily in the II/USP does not prevent finding reimbursable costs mandated by the state. According to claimant “that no districts may claim these costs on their annual reimbursement claims does not relieve the Commission on the duty to determine

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<sup>75</sup> The Commission makes no finding on the mandate implication of the SPI issuing an executive order (as defined in Gov. Code, § 17516) under the authority of section 52056.5 of the Education Code.

whether the costs are reimbursable.” Claimant states that the Commission should find reimbursable, potentially claimable activities for the II/USP.

In its June 2009 comments on the revised draft staff analysis, claimant asserts that a reimbursable mandate may exist despite the claimant not claiming any reimbursable costs in the fiscal year, and that denying the test claim on the basis of not incurring reimbursable costs is improper and lacks any legal authority.

The Commission disagrees. The plain language of section 52053, subdivisions (d) and (j), impose requirements on the SPI. According to the record, the SPI has not selected any schools to participate. If a school were involuntarily selected to participate in the II/USP, it could submit a test claim on the SPI’s notification of its selection (in § 52053, subd. (m)). Given that there is no evidence in the record of any such state-mandated selection by the SPI, the Commission finds that section 52053, subdivisions (d) and (j), do not constitute a state mandate.

In sum, the Commission finds that the II/USP is not a state-mandated program within the meaning of article XIII B, section 6.

**High Achieving/Improving Schools Program (Ed. Code, § 52056, except subdivision (b)):**

This program provides monetary and non-monetary rewards, including the Governor’s Performance Award Program (discussed separately below), to schools that meet or exceed performance targets or demonstrate high achievement. Claimant pled this section as it was amended by Statutes 2000, chapter 695.

Subdivision (a) of section 52056 describes the program and requires the SPI to rank all public schools based on the API in decile categories by grade level of instruction, and rank them by value of the API when compared to schools with similar characteristics. The SPI must also report the target annual growth rate of schools and the actual growth rates attained, and must publish the rankings on the Internet.

Because subdivision (a) does not require a school or school district activity, the Commission finds it is not a state mandate within the meaning of article XIII B, section 6.

In its June 2009 comments on the revised draft staff analysis, claimant states that “[T]he potential consequence of not participating in the ... program is that a state-monitored school will be established and the SPI must assume the legal rights, duties and powers of the governing board and reassign the principal ... [and] such options as reorganizing or closing the school.

The Commission disagrees. No potential consequences for non-participation in the High Achieving/Improving Schools Program are identified in the statute or the regulations, and there is no evidence in the record of consequences that would constitute practical compulsion,<sup>76</sup> so there is no practical compulsion to participate. Therefore, the Commission finds that this program is not a state mandate.

**Governor’s Performance Award Program (Ed. Code, § 52057; Cal. Code Regs., tit. 5, §§ 1031-1033, 1036, 1038-1039):** This program provides monetary and nonmonetary awards to schools that meet or exceed API performance growth targets, as described above.

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<sup>76</sup> *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1369-1370.

Section 52057 establishes the program eligibility, awards, waiver of certain provisions, and expenditure of funds. Section 1031 of the title 5 regulations states the regulatory intent is to implement the Governor's Performance Award Program and the Certificated Staff Performance Incentive Act. As to the remaining title 5 regulations, section 1032 details the general eligibility criteria for these awards. Section 1033 outlines the award funding criteria and states in part, "Schools that meet the eligibility requirements in 2000-2001 for the Governor's Performance Award Program (GPA) shall receive a per pupil award amount for each of their eligible pupils." Section 1033 also describes eligible pupils, and how the amount allocated for the award is determined. Section 1036 states the deadline for requesting waivers of the regulations, and section 1038 states that the award is not subject to indirect or other administrative charges. Section 1039 of the regulations states that the use of funds at the school site for the program shall be decided by the existing school site governance team/school site council and then ratified by the governing board of each local educational agency.<sup>77</sup>

There is nothing in Education Code section 52057 or the applicable title 5 regulations that states that schools or school districts are required to participate in the Governor's Performance Award Program, so there is no legal compulsion to do so. And neither the statute nor the record indicates practical compulsion, defined as: "certain and severe penalties such as double taxation or other draconian consequences"<sup>78</sup> for not participating in the program, or "a substantial penalty (independent of the program funds at issue) for not complying with the statute."<sup>79</sup>

In its June 2009 comments on the draft staff analysis, claimant states that "[T]he potential consequence of not participating in the ... program is that a state-monitored school will be established and the SPI must assume the legal rights, duties and powers of the governing board and reassign the principal ... [and] such options as reorganizing or closing the school.

The Commission disagrees. No potential consequences for non-participation in the Governor's Performance Award Program are identified in the statute or the regulations, and there is no evidence in the record of consequences that would constitute practical compulsion,<sup>80</sup> so there is no practical compulsion to participate.

Therefore, the Commission finds that section 52057 is not a state mandate within the meaning of article XIII B, section 6. The Commission also finds that California Code of Regulations, title 5,

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<sup>77</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>78</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 751.

<sup>79</sup> *Id.* at p. 731.

<sup>80</sup> *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1369-1370.

sections 1031, 1033, 1036, and 1038<sup>81</sup> do not constitute a state mandate on schools or school districts for purposes of the Governor’s Performance Award Program.<sup>82</sup>

Deciding on use of Governor’s Performance Award Program funds: Section 1039 of the title 5 regulations state:

Use of funds at the school site for the Governor’s Performance Award Program shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local education agency.<sup>83</sup>

Although this provision appears to be mandatory based on the plain meaning of “shall be decided by the existing school site governance team .... and then ratified by the governing board,” it is not because these activities are conditional on participation in the Governor’s Performance Award Program, which is voluntary.

As the Supreme Court stated in *Kern*, “if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district’s obligation to comply with the notice and agenda requirement related to that program does not constitute a reimbursable mandate.”

Because deciding the use of funds, and ratifying this decision, is a downstream activity that results from *voluntary* participation in the Governor’s Performance Award Program, the Commission finds that section 1039<sup>84</sup> of the title 5 regulations is not a state mandate within the meaning of article XIII B, section 6.

This conclusion is also supported by the rules of statutory construction. In interpreting these regulations, “[t]he same rules of construction apply in the interpretation or [sic] regulations as apply in the interpretation of statutes.”<sup>85</sup> And the Commission, like a court, keeps in mind the following principles of statutory construction:

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<sup>81</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>82</sup> The regulations also apply to the API and the Certificated Staff Performance Incentive Act. The finding here is limited to the regulations as they apply to the Governor’s Performance Award program.

<sup>83</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>84</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>85</sup> *Lusardi Construction Co. v. California Occupational Safety & Health Appeals Bd.* (1991) 1 Cal.App.4th 639, 647.

A statute must be construed ‘in the context of the entire statutory system of which it is a part, in order to achieve harmony among the parts.’ [Citation omitted.]” A court may consider the overall scheme in which an ambiguous statute is included in order to ascertain its intended meaning. [Citation omitted.] The organization of the division, chapters, and articles is an aid to understanding its purpose. [Citation omitted.] [division, chapter, article, and section headings may properly be considered in determining intent and are entitled to considerable weight].<sup>86</sup>

Considered in context, section 1039 is under article 1.7 of title 5 of the California Code of Regulations. The express purpose of article 1.7, as stated in section 1031, subdivision (b), is to “implement the programs established by two statutes relating to the API: (1) The Governor’s Performance Award Program of the Public Schools Accountability Act of 1999... (2) the Certificated Staff Performance Incentive Act .... ”

As indicated above, the Governor’s Performance Award Program is not a state-mandated program, and as indicated below, the Certificated Staff Performance Incentive Act, is also not a state-mandated program. Thus, deciding the use of funds at the school site for purposes of the voluntary Governor’s Performance Award Program is not a state mandate. Rather, like the requirements placed on school districts in the *Kern* case, it is a “procedural condition imposed on program participation.”<sup>87</sup> As such, it is not reimbursable because participation in the underlying award and incentive programs is voluntary.

In addition, the section heading to section 1032 is “General Eligibility Criteria for Award Programs Related to API Growth,” which indicates that the regulation contains award program criteria rather than requirements that are independent of those award programs: The Governor’s Performance Award Program and the Certificated Staff Performance Incentive Act (§ 1031, subd. (b)).

So again, the Commission finds that section 1039<sup>88</sup> of the title 5 regulations is not a state mandate within the meaning of article XIII B, section 6.

Notifying CDE regarding invalidation of school’s API (Cal.Code Regs. tit.5, § 1032, subd. (d)): Subdivision (d) of section 1032 in the title 5 regulations<sup>89</sup> describes conditions under which the API is invalid, including if the school district notifies CDE of any of the following: (d)(1), there were adult testing irregularities at the school affecting five percent or more of pupils tested; or (d)(2), that the API is not representative of the pupil population at the school; or (d)(3), that the school has experienced a significant demographic change in pupil population between the base

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<sup>86</sup> *Medical Bd. of California v. Superior Court* (2003) 111 Cal.App.4th 163, 175.

<sup>87</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 753.

<sup>88</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>89</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

year and growth year, and that the API between years is not comparable.<sup>90</sup> Subdivisions (d)(6) and (e) state as follows:

(6) If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized. The department may invalidate or withhold the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.<sup>91</sup>

(e) If a school's API is considered invalid pursuant to subdivisions (d)(1) [district notifies CDE of adult testing irregularities at the school affecting 5% or more of the pupils tested], (d)(2) [district notifies CDE that the API is not representative of the pupil population at the school], (d)(4) [school's proportion of parental waivers compared to its STAR test enrollment is equal to or greater than 15% for the 2000 STAR, or 10 % for subsequent STARs, with exceptions], or (d)(5) [In any content area of the California Standards Tests, the school's proportion of the number of test-takers in that content area compared with the total numbers of test-takers is less than 85 percent], *the school is ineligible for participation in any of the award programs for the current and subsequent year.* If a school does not receive an API pursuant to subdivision (d)(3) [the district notifies CDE that the school has experienced a significant demographic change in pupil population between the base year and growth year, and the API between years is not comparable], *the school is ineligible for participation in any of the award programs for the current year only.*<sup>92</sup> [Emphasis added.]

Claimant pleads the following activity: (1) Notifying CDE when circumstances may exist which would invalidate a school's API (Cal Code Regs., tit.5, § 1032, subd. (d)).

Finance, in October 2002, comments that this regulation does not require districts to provide information to the SPI, but states that a school's API shall be considered invalid under certain circumstances.

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<sup>90</sup> Other information that can also invalidate a school's API (but is silent on whether the district notifies CDE of the information) include: in subdivision (d)(4), the schools proportion of parental waivers compared to its STAR enrollment, is equal to or greater than 15 percent for the 2000 STAR, or greater than 10 percent for the 2001 and each subsequent STAR, with exceptions. Also, (in subd. (d)(5)) the STAR can be invalidated if the school's proportion of the number of test-takers in any content area of the California Standard's Test compared with the total number of test-takers is less than 85 percent. And (subd. (d)(6)) if information is made available or obtained by CDE that would lead a reasonable person to conclude that one or more of the preceding circumstances occurred, the API shall be considered invalid.

<sup>91</sup> This was originally in subdivisions (d)(4) and (e) of section 1032. Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>92</sup> This language was amended into subdivision (e) by Register 02, No. 2 (Jan. 8, 2002).

Claimant disagrees, stating in November 2002 that it cannot be the intent of the law for local districts to fail to disclose data deficiencies when they exist regarding testing irregularities, the API not being representative of the pupil population, or a school experiencing a significant demographic change in pupil population. Regarding the STAR apportionments, claimant argues they are for the costs of the STAR testing process, but costs alleged in this claim relate to additional post-test duties required to ensure the accuracy of the API.

In comments on the draft staff analysis submitted in November 2007, claimant states that Education Code section 52052 and section 1032, subdivision (d) of the title 5 regulations require school districts to report the API information and to “satisfy” a CDE investigation. Claimant also distinguishes this case from the *Kern* case, and that if the district potentially removes itself from participation in the awards programs, it would not be complying with section 1032, subdivision (d), to establish eligibility for cash awards.

San Diego Unified School District (SDUSD) filed comments on the draft staff analysis in November 2007, arguing that California Code of Regulations, title 5, section 1032, subdivision (d), constitutes a state-mandated program to notify CDE of errors in the API. This is because the draft staff analysis found a state mandate in section 52056, subdivision (c)’s requirement for the district governing board to discuss the results of the annual ranking following the annual publication of the API and SPI school rankings. SDUSD argues that the intent is to have the governing board make decisions and use the information to ultimately improve pupil performance. SDUSD asserts the existence of compulsion to notify the governing board of validation errors in the API, so the board shall discuss why the API annual ranking may be inaccurate. Also, SDUSD notes that section 52056, subdivision (b), states: “All schools shall report their ranking, including a description of the components of the API in their school accountability report card pursuant to Sections 33126 and 35256.” And section 33126, subdivision (a), states the “school accountability report card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on which school to enroll his or her children.” According to SDUSD, the intent is to have the API and its component information used by parents to make decisions about school choice, and that there is a compulsion to provide parents with meaningful data, including a correct API.

The issue is whether section 1032, subdivision (d), of the title 5 regulations imposes a state-mandated activity within the meaning of article XIII B, section 6.

Although the regulation states that the API “shall be considered invalid” if the school district reports the information in subdivisions (d)(1) through (d)(3), it does not expressly require the school district to report it. Therefore, the Commission finds that school districts are not legally compelled under section 1032 to report this information.

The next issue is whether there is practical compulsion by the state to certify the information in subdivisions (d)(1) through (d)(3) of section 1032 of the title 5 regulations, when doing so would invalidate the school’s API. The Commission finds that there is not.

Section 1032 states in subdivision (d)(6) that CDE “may investigate” information “to determine if the integrity of the API has been jeopardized” and authorizes CDE to “invalidate or withhold the school’s API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.” According to subdivision (e), the consequence of having an

invalid API is that “the school is ineligible for participation in any of the award programs for the current and subsequent year” except in the case of the school experiencing a significant demographic change in pupil population between the base and growth years, in which case, the school is ineligible for participation in any of the award programs for the current year only.

For a school district that certifies the information in subdivisions (d)(1) through (d)(3) of section 1032, its API “shall be considered invalid” which in turn, renders it ineligible for the Governor’s Performance Award Program or the Certificated Staff Performance Incentive Act, according to subdivision (e).

In the *Kern High School District* case, the California Supreme Court considered school district’s voluntary participation in the School Improvement Program, which the court called “substantial” because it provided \$394 million statewide in fiscal year 1998-1999.<sup>93</sup> In finding that claimants were not practically compelled to participate in that and the other programs at issue, the court stated:

In essence, claimants assert that their participation in the education-related programs here at issue is so beneficial that, as a practical matter, they feel they must participate in the programs, accept program funds, and-by virtue of ...[the test claim statutes]- incur expenses necessary to comply with the procedural conditions imposed on program participation. Although it is completely understandable that a participant in a funded program may be disappointed when additional requirements (with their attendant costs) are imposed as a condition of continued participation in the program, just as such a participant would be disappointed if the total amount of the annual funds provided for the program were reduced by legislative or gubernatorial action, the circumstance that the Legislature has determined that the requirements of an ongoing elective program should be modified does not render the local entity’s decision whether to continue its participation in the modified program any less voluntary.<sup>94</sup>

As discussed below, the Governor’s Performance Award Program and the Certificated Staff Performance Incentive Act are voluntary programs. The activities in section 1032, subdivision (d), of the title 5 regulations are performed only if the district chooses to participate in the Governor’s Performance Award Program and the Certificated Staff Performance Incentive Act, the programs implemented by the regulations (§ 1031, subd. (b)). Therefore, the regulatory activities of notifying CDE of testing irregularities or other factors that would invalidate a school’s API, like the activities at issue in the *Kern* case, do not constitute practical compulsion. Rather, “claimants have found the benefits of various funded programs ‘too good to refuse’- even though as a condition of program participation, they have been forced to incur some

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<sup>93</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 732.

<sup>94</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 753.



costs.”<sup>95</sup> Moreover, there is nothing in the record to show that the school districts are practically compelled to participate in the programs.<sup>96</sup>

Additionally, the section 1032 regulation is under article 1.7 of title 5 of the California Code of Regulations, the express purpose of which, as stated in section 1031, subdivision (b), is to “implement the programs established by two statutes relating to the API: (1) The Governor’s Performance Award Program of the Public Schools Accountability Act of 1999... (2) the Certificated Staff Performance Incentive Act ....” The regulation is a downstream requirement imposed on participants in these optional programs. As such, applying the reasoning in the *Kern School Dist.* case, the Commission finds that this regulation does not impose a state mandate.

SDUSD asserts that the interest in accurate information and informed parental choice of schools compels the school to comply with section 1032, subdivision (d). Although those may be worthwhile goals, they do not create practical compulsion for purposes of finding a state mandate. The Supreme Court in *Kern* described practical compulsion as the statute imposing “certain and severe penalties such as double taxation or other draconian consequences”<sup>97</sup> for not participating in the programs, and described practical compulsion as “a substantial penalty (independent of the program funds at issue) for not complying with the statute.”<sup>98</sup> As discussed above, the activity at issue (notifying CDE of circumstances that may invalidate a school’s API) does not meet this standard.

Therefore, in the absence of legal or practical compulsion to notify the CDE when circumstances may exist that would invalidate a school’s API, the Commission finds that subdivision (d) of section 1032 of the title 5 regulations<sup>99</sup> does not impose a state mandate within the meaning of article XIII B, section 6.

Notify CDE and publisher of errors in STAR testing and demographic data: Subdivision (j) of section 1032 in the title 5 regulations states:

The local educational agency [school district or county office of education] *must* notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency’s notification *must* be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department’s web-site. The local education agency *must* submit all data corrections to the publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no

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<sup>95</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 731.

<sup>96</sup> Cf. *Department of Finance v. Commission on State Mandates*, *supra*, 170 Cal.App.4th, 1355, 1366.

<sup>97</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 751.

<sup>98</sup> *Id.* at p. 731.

<sup>99</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.<sup>100</sup> [Emphasis added.]

Claimant pleads the following activities in the test claim:

- (1) Upon receipt of a report of STAR testing and demographic data from the CDE, notify the department and the test publisher within 30 days by way of e-mail or writing that there are errors in the STAR testing or demographic data (Cal Code Regs., tit. 5, § 1032, subd. (j)); and
- (2) Submit all data corrections to the test publisher in writing or e-mail on or before a deadline specified by the test publisher (*Ibid*).

Finance, in its October 2002 comments, states that the section does not specifically require districts to provide any information. Also, CDE states that school districts already receive funding under the STAR program for administration and error correction. Finance alleges that currently it is the test publisher's responsibility to incur costs associated with correcting a publishing error in regards to the STAR program. According to Finance, if the district provides inaccurate data despite receiving funds to ensure the quality of the STAR data, the district should be held responsible for the fiscal implications at the local level.

In its November 2007 comments on the draft staff analysis, Finance asserts that the annual Budget Act provides apportionment funding per test to each district to ensure quality data collection and reporting. According to Finance, if a district provides erroneous data, it is responsible to correct it because the district receives apportionment payments for correction and thus does not incur mandated costs.

Turning to the issue of whether the section 1032, subdivision (j), of the title 5 regulations imposes a state mandate, the regulation states that the local educational agency "must" notify the department and publisher of errors in the STAR testing and demographic data, and "must" submit data corrections to the publisher. The word "must" in the regulation is as mandatory as the word "shall."<sup>101</sup> For the reasons discussed below, however, the Commission finds that these activities are not mandated by the state.

In interpreting this regulation, "[t]he same rules of construction apply in the interpretation or [sic] regulations as apply in the interpretation of statutes."<sup>102</sup> And the Commission, like a court, keeps in mind the following principles of statutory construction:

A statute must be construed 'in the context of the entire statutory system of which it is a part, in order to achieve harmony among the parts.' [Citation omitted .]" A

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<sup>100</sup> This language was formerly in subdivision (i), Register 01, No. 46 (Nov. 15, 2001). It was moved to subdivision (j) by Register 02, No. 2 (Jan. 8, 2002).

<sup>101</sup> Education Code section 75: "'Shall' is mandatory and 'may' is permissive." See *Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group* (2005) 129 Cal.App.4th 508, 519.

<sup>102</sup> *Lusardi Construction Co. v. California Occupational Safety & Health Appeals Bd.*, *supra*, 1 Cal.App.4th 639, 647.

court may consider the overall scheme in which an ambiguous statute is included in order to ascertain its intended meaning. [Citation omitted.] The organization of the division, chapters, and articles is an aid to understanding its purpose. [Citation omitted.] [division, chapter, article, and section headings may properly be considered in determining intent and are entitled to considerable weight].<sup>103</sup>

Section 1032, put in context, is under article 1.7 of title 5 of the California Code of Regulations. The express purpose of article 1.7, as stated in section 1031, subdivision (b), is to “implement the programs established by two statutes relating to the API: (1) The Governor’s Performance Award Program of the Public Schools Accountability Act of 1999... (2) the Certificated Staff Performance Incentive Act .... ”

As discussed above, the Governor’s Performance Award Program is not a state-mandated program, and as discussed below, the Certificated Staff Performance Incentive Act, is also not a state-mandated program. Thus, notifying CDE and the publisher of errors in the STAR testing or demographic data is not required. Rather, like the requirements placed on school districts in the *Kern* case, it is a “procedural condition imposed on program participation.”<sup>104</sup> As such, it is not reimbursable because participation in the underlying award and incentive programs is voluntary.

This conclusion is also supported by the heading to section 1032, which is “General Eligibility Criteria for Award Programs Related to API Growth.” This heading indicates that the regulation contains award program criteria rather than requirements that are independent of those award programs: The Governor’s Performance Award Program and the Certificated Staff Performance Incentive Act (§ 1031, subd. (b)).

Therefore, the Commission finds that subdivision (j) of section 1032 of title 5 of the California Code of Regulations<sup>105</sup> does not impose a state mandate on school districts to notify the test publisher and CDE of errors in the STAR testing or demographic data.

The other subdivisions in section 1032 (subds. (a), (i) & (k)) do not require a school district activity, so the Commission finds that they also do not impose a state mandate within the meaning of article XIII B, section 6.

**Schoolsite Employees Performance Bonus (Stats. 2000, ch. 71, § 40, former Cal.Code Regs., tit. 5, §§ 1031–1033, 1036- 1038; former Cal. Code Regs., tit. 5, § 1033, subd. (b)):** This uncodified statute requires school districts, county offices of education and charter schools, “as a condition of receiving funds” upon request from the SPI, to certify the number of full-time equivalent employees at each schoolsite under their jurisdiction that are eligible for awards under the Governor’s Performance Award Program. Schools are to use 50% of the award for one-time bonuses to employees, and the other 50% for any one-time purpose.

The title 5 regulations adopted for the Governor’s Performance Award program also applied to the Schoolsite Employees Performance Bonus program until the regulations, as applied to the Schoolsite Employees Performance Bonus, were repealed in January 2002.<sup>106</sup>

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<sup>103</sup> *Medical Bd. of California v. Superior Court, supra*, 111 Cal.App.4th 163, 175.

<sup>104</sup> *Kern High School Dist., supra*, 30 Cal.4th 727, 753.

<sup>105</sup> Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

Claimant alleges the following activities as a result of this program:

- (1) When requested by the SPI, to certify the number of full-time equivalent employees for the period requested in the creation of the one-time API Schoolsite Employees Performance Bonus (Stats. 2000, ch. 71, § 40);
- (2) For school districts and county offices of education to establish, periodically update and maintain employee records to receive, administer and distribute award moneys to staff as part of the Bonus program (*Ibid*);
- (3) Upon receipt of an award from the Governor’s Performance Award Program and the Schoolsite Employees Performance Bonus Award, to consult with the existing school site governance team/school site council to decide the use of the awards and have the distribution plan ratified by the governing board. The Superintendent of Public Instruction shall then apportion an equal amount per full-time equivalent employee to the appropriate school district, county office of education, or charter school for allocation to the schoolsites that have met or exceeded their Academic Performance Index growth target (*Ibid*).

CDE and Finance state that this program is voluntary and not a state mandate.

Claimant argues that the requirement to certify the number of full-time equivalent employees is mandatory upon the SPI’s request. Claimant argues that school districts do not apply for this program, but that the statute requires the SPI to allocate the sums appropriated, so the program is not discretionary.

The test claim statute (Stats. 2000, ch. 71, § 40) states in part:

(a)(2) *As a condition of receiving funds pursuant to this section*, school districts, county offices of education, and charter schools shall, upon request by the Superintendent of Public Instruction and by November 1, 2000, certify the number of full-time equivalent employees employed... ” [¶]...[¶]

(a)(4) *As a condition of receiving funds pursuant to this section*, a schoolsite shall expend 50 percent of the funds to provide one-time bonuses, to its employees, to be divided equally among all schoolsite employees on a full-time equivalent basis. The other 50 percent may be used at the discretion of the schoolsite for any one-time purpose. [Emphasis added.]

The Schoolsite Employees Performance Bonus program is not mandated by the state. The school district requirements are only imposed “as a condition of receiving funds pursuant to this section.” (Stats. 2000, ch. 71, § 40, subd. (a)(2) & (a)(4).) The statute does not state that schools are required to accept the funds, so there is no legal compulsion to participate in the program.

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<sup>106</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

Moreover, there is no practical compulsion to participate in the Schoolsite Employees Performance Bonus program. There are no “certain and severe penalties”<sup>107</sup> for not participating in the program, nor is there “a substantial penalty (independent of the program funds at issue) for not complying with the statute.”<sup>108</sup> Performing activities required as a condition of receiving funds does not create a state-mandated program.<sup>109</sup>

Thus, the downstream activities (e.g., administering and distributing award funds and deciding on the use of funds) in this program are also not mandated, in accordance with the reasoning in the *Kern* case. Therefore, the Commission finds that Statutes 2000, chapter 71, section 40 (Schoolsite Employees Performance Bonus Program) is not a state mandate within the meaning of article XIII B, section 6.

Since the title 5 regulations (former Cal.Code Regs., tit. 5, §§ 1031–1033, 1036- 1038)<sup>110</sup> were intended to implement the Schoolsite Employees Performance Bonus Program (among others), the Commission also finds that they are not a state mandate because, as applied to this program, they are downstream of an optional program.

Certification of FTE employees: As originally adopted, section 1033, subdivision (b), of the title 5 regulations stated:

To participate in the Academic Performance Index Schoolsite Employees Performance Bonus awards school districts, county offices of education, and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057 (a).<sup>111</sup>

Although this provision appears to be mandatory based on the plain meaning of “shall certify the number of” FTEs, it is not. Rather, this activity is conditional on participation in the Academic Performance Index Schoolsite Employees Performance Bonus awards, which is voluntary.

Based on the Supreme Court’s reasoning in *Kern* regarding voluntary participation, and because certification of FTEs is a downstream activity that results from *voluntary* participation in the Schoolsite Employees Performance Bonus awards, the Commission finds that former section 1033, subdivision (b), is not a state mandate within the meaning of article XIII B, section 6.

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<sup>107</sup> *Kern High School Dist., supra*, 30 Cal.4th 727, 751.

<sup>108</sup> *Id.* at p. 731.

<sup>109</sup> *Ibid.*

<sup>110</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>111</sup> This provision in subdivision (b) was adopted by Register 01, No. 5 (Jan. 30, 2001) and repealed by Register 02, No. 2 (Jan. 8, 2002)).

**Certificated Staff Performance Incentive Act (Ed. Code, §§ 44650-44654; added by Stats. 1999, ch. 52; Cal. Code Regs., tit. 5, §§ 1031-1032 & 1034 -1038):** As indicated above, this act establishes one-time performance awards for teachers and other certificated staff in underachieving schools, where the academic performance of pupils significantly improves beyond the minimum percentage growth target established by the SPI based on the school's API.

Section 44650 establishes the act and the maximum award at \$25,000 per full-time equivalent (FTE) employee, subject to annual Budget Act appropriation. Section 44651 describes eligibility for funding. Section 44652 provides for allocation of funds by the SPI to school districts and charter schools. Section 44653 states that after receiving the allocation from the SPI, the governing board shall negotiate individual teacher and other certificated staff salary award amounts with the exclusive representative of the bargaining unit. Section 44654 details how funds are to be classified for purposes of the district's revenue limit, and for purposes of teacher retirement or benefits. Section 44650, subdivision (b), states that the SBE shall establish criteria for determining the eligibility of schools to receive the awards.

The criteria are in the title 5 regulations, which state their intent is to implement the Governor's Performance Award Program and the Certificated Staff Performance Incentive Act (§ 1031). The regulations also specify the general (§ 1032) and specific (§ 1034) eligibility criteria for the awards, describe funding distribution (§ 1035), specify the waiver deadline (§ 1036), and specify that the awards are not considered compensation when calculating retirement benefits (§ 1037), and that the Certificated Staff Performance Incentive program and the Governor's Performance Awards are not subject to the school district or school or indirect or other administrative charges (§1038).<sup>112</sup>

Claimant alleges the following activities associated with the Certificated Staff Performance Incentive Act:

- (1) Establishing, periodically updating and maintaining employee payroll records to receive, administer and distribute the awards as part of the One-time Certificated Staff Performance Incentive Act (§ 44653);
- (2) For each school district to complete an application on behalf of its eligible schools to participate in the program, to include (a) the number of eligible schools, (b) certification that the data used in the API calculations is accurate, and (c) a list of certificated staff positions on a full-time equivalent (FTE) basis at each of the eligible schools. After January 8, 2002, the application shall certify the data used in the API calculations is accurate, and report the number of certificated positions on an FTE basis at each of the eligible schools (§ 44651 & Cal.Code Regs., tit. 5, § 1034);
- (3) When an award is received, for school districts to negotiate with the exclusive representative of the bargaining unit of the teachers and other certificated staff to determine the distribution of funds (§ 44653);

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<sup>112</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

(4) In the event the governing board and the exclusive representative of teachers and other certificated staff do not reach an agreement regarding the distribution of an award under the program, or if the teachers and other certificated staff are not represented by an exclusive bargaining representative, for districts to calculate and distribute the award amounts as a percentage of base salaries that is determined by formula (§ 44653);

(5) Claimant also pleads the administrative costs to calculate individual salary awards, determine and locate recipients, and to deliver the awards and the cost of compensation-driven benefits incurred as a result of this program, as well as the Governor's High Achieving Schools Program and the API Schoolsite Employees Performance Bonus Program (§ 44654 & Cal.Code Regs., tit. 5, § 1038);

CDE and Finance allege in their comments that this program is not a state mandate because it is voluntary.

Claimant argues that districts have no reasonable alternative to participate, as detailed above. Claimant also disagrees with CDE that salary-driven costs can be recovered through the awards program.

According to the program's eligibility statute: "Any school district or charter school that maintains classes in kindergarten or any of grades 1 to 12, inclusive, *may apply* for funding under this article if it meets the condition of subdivision (b)." [Emphasis added.] Subdivision (b) requires the school's API to be below the 50th percentile relative to other public schools in the state in the prior year, and requires schools to meet other SPI-established criteria (§ 44651, subds. (a) & (b)). These criteria are in the regulations (Cal. Code Regs., tit. 5, §§ 1031-1032 & 1034 -1038).<sup>113</sup>

The Certificated Staff Performance Incentive Act and applicable regulations do not legally compel school districts to participate, since the plain language of section 44651 authorizes but does not require districts to apply for the program. Nor is there any practical compulsion to participate in this program, independent of the program funds at issue.<sup>114</sup> There are no "certain and severe penalties ... or other draconian consequences"<sup>115</sup> for not participating in the program.

Therefore, the Commission finds that the Certificated Staff Performance Incentive Act (Ed. Code, §§ 44650-44654) is not a state mandate within the meaning of article XIII B, section 6. The Commission also finds California Code of Regulations, title 5, sections 1031 and 1034-

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<sup>113</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>114</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 731.

<sup>115</sup> *Id.* at 751.

1038<sup>116</sup> do not impose state mandates for purposes of the Certificated Staff Performance Incentive Act.<sup>117</sup>

**Schools in the alternative accountability system that choose the API:** Not all schools are required to participate in the API. Section 52052, subdivision (h), as amended by Statutes 2001, chapter 887, states:

By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 test scores contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools [formerly "independent study schools"].

The issue is whether schools with fewer than 100 valid test scores, or schools that are under the jurisdiction of the county board of education or a county superintendent of schools, community day schools, alternative schools (including continuation high schools, and opportunity schools or independent study schools) are mandated by the state to participate in the API. The Commission finds that they are not.

As added by Statutes 2001, chapter 887, subdivisions (f)(1), (f)(2) and (g) of section 52052 stated:

(f)(1) A comprehensive high school, middle school, or elementary school with 11 to 99 valid test scores of pupils who were enrolled in a school within the same school district in the prior fiscal year shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(f)(2) A school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school, including continuation high schools and opportunity schools, may receive an API score if the school has 11 more [sic] or more valid test scores **and the school chooses to receive an API score** for at least three years.<sup>118</sup> [Emphasis added.]

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<sup>116</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>117</sup> The regulations also apply to the API and Governor's Performance Award programs, so the finding here is limited to the regulations as they apply to the Certificated Staff Performance Incentive Act.

<sup>118</sup> Currently, subdivision (f)(2) states: "A school annually shall receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the performance of the school for one or more of the following reasons..." The Commission makes no finding on this current version.



(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

Similarly, the title 5 regulations apply to “schools” defined as “all schools, including charter schools, that receive a ranking on the API including schools participating in the ...[II/USP].” (Cal.Code Regs., tit. 5, § 1032, subd. (a).) Subdivision (b) of section 1032 further states:

For the purposes of these award programs, the API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system, once such a system is adopted by the [SBE] ... as required by Education Code section 52052(g). The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools that fall under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Alternative schools **may elect to be part of the API accountability system** for the purposes of awards and interventions pursuant to the API.<sup>119</sup> If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.<sup>120</sup> [Emphasis added.]

According to the plain language of section 52052, subdivision (f), and the section 1032, subdivision (b) regulation, as quoted above, schools in the alternative accountability system participate in the API system voluntarily. The statute states that schools under the jurisdiction of a county board of education or county superintendent of schools, or a community day school or an alternative school may receive an API score “if the school has 11 or more valid test scores **and the school chooses to receive an API score** for at least three years.”<sup>121</sup> And alternative schools, according to the regulation, may “elect” to be part of the API accountability system.<sup>122</sup>

As the Supreme Court stated: “if a school district elects to participate in or continue participation in any underlying *voluntary* education-related funded program, the district’s obligation to comply with the notice and agenda requirement related to that program does not constitute a

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<sup>119</sup> This provision originally read: “Once the alternative accountability system required by Education Code section 52052 (g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API.” (Register 00, No. 52 (Dec. 28, 2000).) Although in earlier versions of the regulation, this choice is contingent on SBE’s adoption of an alternative accountability system, the finding is based on the statute (former Ed. Code, § 52052, subd. (f)(2)) which is not contingent.

<sup>120</sup> Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan. 8, 2002).

<sup>121</sup> Education Code section 52052, subdivision (f). Emphasis added.

<sup>122</sup> California Code of Regulations, title 5, section 1032, subdivision (b).

reimbursable mandate.”<sup>123</sup> In this case, the test claim statutes and regulations expressly state that the API is voluntary as to the following types of schools: schools with fewer than 100 valid test scores, or schools that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, or alternative schools, including continuation high schools and opportunity schools and independent study schools. Therefore, based on the plain language of the statute and regulation, there is no legal compulsion for these schools to participate in the API program.

The Supreme Court, in *Kern*, also said that state mandates could be found in cases of practical compulsion, which it described as the statute imposing “certain and severe penalties such as double taxation or other draconian consequences”<sup>124</sup> for not participating in the programs. In another part of the *Kern* opinion, the court described practical compulsion as “a substantial penalty (independent of the program funds at issue) for not complying with the statute.”<sup>125</sup>

There is, however, no practical compulsion to participate in the API. Section 52052.2 states that a school with an API score with an asterisk (11-99 valid test scores) may participate in the Governor’s Performance Awards Program and the II/USP. But even for schools not eligible for award programs due to lacking an API, there is no evidence of practical compulsion.

Not having an API, or having an invalid API score, is not practical compulsion, even though it excludes the school from some award programs. As in *Kern*, there is no practical compulsion merely because “claimants have found the benefits of various funded programs ‘too good to refuse’ –even though, as a condition of program participation, they have been forced to incur some costs.”<sup>126</sup> In short, there is no practical compulsion to participate in the API if the consequence of not participating is a school’s ineligibility for the Governor’s Performance Awards and the II/USP that the school finds “too good to refuse.”

Because there is no legal or practical compulsion for these specified types of schools to have an API, the Commission finds that the following schools are not mandated by the state to participate in the API system: schools with fewer than 100 valid test scores, or schools that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, or alternative schools, including continuation high schools and opportunity schools and independent study schools. For purposes of an API-related activity that is as a state mandate, ‘schools’ does not include these types of schools.

**B. Does Education Code section 52056, subdivision (c), constitute a program within the meaning of article XIII B, section 6?**

Discussion is now limited to the following provision that imposes a state mandate on school districts:

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<sup>123</sup> *Kern High School Dist., supra*, 30 Cal.4th 727, 743. Emphasis in original.

<sup>124</sup> *Id.* at p. 751.

<sup>125</sup> *Id.* at p. 731.

<sup>126</sup> *Id.* at p. 731.

- Education Code section 52056, subdivision (c), for the governing board of each school district, after the annual publication of the API and SPI school rankings, to “discuss the results of the annual ranking at the next regularly scheduled meeting.” (Stats. 2000, ch. 695.)

In order for this provision to be subject to article XIII B, section 6 of the California Constitution, it must constitute a “program.” This means a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.<sup>127</sup> Only one of these findings is necessary to trigger article XIII B, section 6.<sup>128</sup>

The activity in the API statute is within the purview of public education accountability and improvement, programs that carry out a governmental function of providing a service to the public.<sup>129</sup> Moreover, the statute imposes a unique requirement on school districts. In sum, section 52056, subdivision (c), carries out the governmental function of providing accountability and improvement in public education, and is a law which, to implement state policy, imposes unique requirements on school districts and does not apply generally to all residents and entities in the state. Thus, the Commission finds that Education Code section 52056, subdivision (c), constitutes a program within the meaning of article XIII B, section 6.

**Issue 2: Does Education Code section 52056, subdivision (c), impose a new program or higher level of service?**

The next issue is whether subdivision (c) of section 52056, i.e., found above to be a state-mandated program, is a new program or higher level of service. To determine this, the test claim statute is compared to the legal requirements in effect immediately before enacting the test claim statute.<sup>130</sup>

**Discuss the API (Ed. Code, § 52056, subd. (c)):** This provision requires the governing board of each school district, after the annual publication of the API and SPI school rankings, to “discuss the results of the annual ranking at the next regularly scheduled meeting.” (As of Stats. 2000, ch. 695.)

This activity is a new program or higher level of service, since prior law did not require this discussion. Nor could it have, given that the API did not exist prior to the test claim statute. Therefore, the Commission finds that the requirement for the school district governing board to discuss the API at its next meeting (Ed. Code, § 52056, subd. (c)) is a new program or higher level of service.

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<sup>127</sup> *County of Los Angeles v. State of California*, *supra*, 43 Cal.3d 46, 56.

<sup>128</sup> *Carmel Valley Fire Protection Dist.* (1987) 190 Cal.App.3d 521, 537.

<sup>129</sup> “Education in our society is ... a peculiarly governmental function.” *Long Beach Unified School District v. State of California*, *supra*, 225 Cal.App.3d 155, 172.

<sup>130</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

The school districts' discussion of the results of the annual API and SPI rankings is not state-mandated, however, for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, or alternative schools, including continuation high schools and opportunity schools and independent study schools.

**Issue 3: Does Education Code section 52056, subdivision (c), impose costs mandated by the state within the meaning of Government Code sections 17514 and 17556?**

The final issue is whether Education Code section 52056, subdivision (c), imposes costs mandated by the state,<sup>131</sup> and whether any statutory exceptions listed in Government Code section 17556 apply to the claim. Government Code section 17514 defines "cost mandated by the state" as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

In the test claim,<sup>132</sup> claimant declares that it will incur costs in excess of \$200 during 2000-2002 to implement the claim statutes.<sup>133</sup>

**Discuss the API (Ed. Code, § 52056, subd. (c)):** This provision requires the governing board of each school district, after the annual publication of the API and SPI school rankings, to "discuss the results of the annual ranking at the next regularly scheduled meeting."

Finance, in its November 2007 comments on the draft staff analysis, argues that this discussion of the API by the governing board is already required by Proposition 59. As approved by the voters in November 2004, this ballot initiative added the following to the California Constitution:

(b)(1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

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<sup>131</sup> *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

<sup>132</sup> Test Claim 01-TC-22, Exhibit 1, Declaration of Diana Halpenny, June 24, 2002.

<sup>133</sup> Government Code section 17564. The current requirement is \$1000 in costs.

The ballot materials given to the electorate on Proposition 59 state that: “The measure does not directly require any specific information to be made available to the public. It does, however, create a constitutional right for the public to access government information.”<sup>134</sup>

The yardstick by which we measure the application of Proposition 59 to subdivision (c) of section 52056 is Government Code section 17556, subdivision (f), which states that the Commission shall not find costs mandated by the state if, after a hearing, the Commission finds:

(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

In *California School Boards Association v. State of California*,<sup>135</sup> the court invalidated the “reasonably within the scope of” language in Government Code section 17556, subdivision (f). In fact, the court used Proposition 59 to illustrate why the “reasonably within the scope of” language is invalid:

One example suffices to show that the “reasonably within the scope of” language is overly broad. ... Any statute that has anything to do with open government is “reasonably within the scope of” Proposition 59. However, it is unlikely that the voters intended to grant carte blanche to the Legislature to impose unlimited, unreimbursable costs on local governments for all duties associated with open government.<sup>136</sup>

Therefore, the issue is whether section 52056’s requirement to discuss the API ranking at the next regularly scheduled school board meeting is “necessary to implement or expressly included in” Proposition 59. The Commission finds that it is not.

A requirement to discuss API rankings at a school board meeting is not expressly included in Proposition 59, nor is there any evidence or argument in the record that discussing API rankings is necessary to implement Proposition 59. The requirement to discuss the API rankings at school board meeting was enacted by Statutes 1999-2000 (1st Ex. Sess.), chapter 3, before Proposition 59 was enacted in November 2004. There is no indication in the legislative history of the test claim statute (Ed. Code, § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695) that it was intended to implement Proposition 59 or any other ballot initiative. Lacking any evidence to the contrary, the Commission finds that the provision

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<sup>134</sup> Ballot Pamphlet, Statewide General Election (Nov. 2, 2004) Proposition 59, analysis by the Legislative Analyst. See: < [http://www.lao.ca.gov/ballot/2004/59\\_11\\_2004.htm](http://www.lao.ca.gov/ballot/2004/59_11_2004.htm) > as of May 11, 2008. The courts frequently look to ballot materials to understand the terms of a measure enacted by the electorate. *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 737.

<sup>135</sup> *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183.

<sup>136</sup> *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1215-1216.

regarding discussion of the API ranking in section 52056 is not “necessary to implement” Proposition 59 or any other ballot initiative.

Based on claimant’s declaration accompanying the test claim, the Commission finds that Education Code section 52056, subdivision (c), imposes costs mandated by the state within the meaning of Government Code section 17514, and that no exceptions to reimbursement in Government Code section 17556 apply. (Ed. Code, § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

## **CONCLUSION**

For the reasons discussed above, the Commission finds, effective June 25, 1999, that Education Code section 52056, subdivision (c), imposes a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

The Commission also finds, however, that districts’ discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

The Commission also finds that participation in the II/USP pursuant to section 52053, subdivisions (d) and (j), do not constitute a reimbursable state mandate because no schools or school districts have participated in the II/USP pursuant to these provisions.

The Commission also finds that all other test claim statutes and regulations do not constitute a reimbursable state-mandated program because they are either voluntary or are downstream of a voluntary activity.

Adopted: 5/27/10

## **PARAMETERS AND GUIDELINES**

Education Code Section 52056, Subdivision (c)

Statutes 1999, 1<sup>st</sup> Extraordinary Session, Chapter 3

Statutes 2000, Chapter 695

*Academic Performance Index*

01-TC-22

### **I. SUMMARY OF THE MANDATE**

Education Code section 52056, subdivision (c), as added and amended by the test claim statutes requires a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and Superintendent of Public Instruction (SPI) school rankings.

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim statutes imposes a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP) pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

### **II. ELIGIBLE CLAIMANTS**

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

### **III. PERIOD OF REIMBURSEMENT**

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The

San Juan Unified School District filed the test claim on June 28, 2002, establishing eligibility for reimbursement for the 2000-2001 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2000.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c) between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

#### **IV. REIMBURSABLE ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activity is reimbursable:

- For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the



annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

## **V. CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### **A. Direct Cost Reporting**

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### **1. Salaries and Benefits**

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

#### **2. Materials and Supplies**

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

#### **3. Contracted Services**

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

#### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

#### 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

#### B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

### **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.



**RECEIVED**  
 May 08, 2019  
 Commission on  
 State Mandates

**BETTY T. YEE**  
 California State Controller

April 26, 2019

Ms. Heather Halsey  
 Executive Director  
 Commission on State Mandates  
 980 Ninth Street, Suite 300  
 Sacramento, CA 95814

**SUBJECT: Notice of Complete Mandate Redetermination Request, Schedule for  
 Comments, and Notice of Tentative Hearing Date**

Mandate Redetermination Request, 18-MR-01  
*Academic Performance Index (01-TC-22)*  
 Education Code Sections 44650-44654, 52050-52055.51, 52056-52057, 52058;  
 Statutes 1999-2000x1, Chapter 3; Statutes 1999, Chapter 52; Statutes 2000,  
 Chapters 71, 190, and 695; Statutes 2001, Chapters 159, 745, 749, and 887;  
 California Code of Regulations, Title 5, Sections 1031-1039;  
 Register 00, No. 52 (Dec.28, 2000); Register 01, No. 4 (Jan. 26, 2001);  
 Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001);  
 Register 01, No. 31, (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001);  
 Register 02, No. 2 (Jan 8, 2002); as alleged to be modified by Statutes 2013,  
 Chapter 47 (AB 97)  
 Department of Finance, Requester

Dear Ms. Halsey:

The State Controller's Office reviewed and concurs with the Department of Finance's request to adopt a new test claim decision to supersede the prior decision on the Academic Performance Index mandate program based upon the repeal of the authorizing statute.

Heather Halsey  
April 26, 2019  
Page 2

If you have any questions, please contact Tiffany Hoang, Fiscal Analyst of the Local Reimbursements Section in the Local Government Programs and Services Division, at [THoang@sco.ca.gov](mailto:THoang@sco.ca.gov) or (916) 323-1127.

Sincerely,

A handwritten signature in blue ink that reads "Anita Dagan". The signature is written in a cursive style with a large, sweeping initial "A".

ANITA DAGAN, Manager  
Local Reimbursements Section

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 9, 2019, I served the:

- **State Controller's Office (Controller's) Comments on the Mandate Redetermination filed May 8, 2019**

Mandate Redetermination Request, 18-MR-01

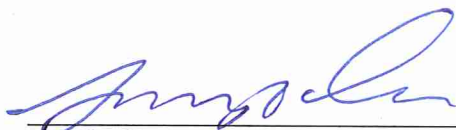
*Academic Performance Index (01-TC-22)*

Education Code Sections 44650-44654, 52050-52055.51, 52056-52057, 52058;  
Statutes 1999-2000x1, Chapter 3; Statutes 1999, Chapter 52; Statutes 2000, Chapters 71, 190, and 695; Statutes 2001, Chapters 159, 745, 749, and 887; California Code of Regulations, Title 5, Sections 1031-1039; Register 00, No. 52 (Dec. 28, 2000); Register 01, No. 4 (Jan. 26, 2001); Register 01, No. 5 (Jan. 30, 2001); Register 01, No. 24 (Jun. 11, 2001); Register 01, No. 31 (Aug. 2, 2001); Register 01, No. 46 (Nov. 15, 2001); Register 02, No. 2 (Jan 8, 2002); as alleged to be modified by Statutes 2013, Chapter 47 (AB 97)

Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 9, 2019 at Sacramento, California.



Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 4/11/19

**Claim Number:** 18-MR-01

**Matter:** Academic Performance Index (01-TC-22)

**Requester:** Department of Finance

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Edmundo Aguilar**, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguiar@cde.ca.gov

**Amber Alexander**, *Department of Finance*

**Requester Representative/Requester Contact**

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

**Michael Ambrose**, Associate General Counsel, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3266

mambrose@csba.org

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Mike Brown**, *School Innovations & Advocacy*  
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762  
Phone: (916) 669-5116  
mikeb@sia-us.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*  
895 La Sierra Drive, Sacramento, CA 95864  
Phone: (916)595-2646  
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-0706  
gcarlos@sco.ca.gov

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**David Cichella**, *California School Management Group*  
3130-C Inland Empire Blvd., Ontario, CA 91764  
Phone: (209) 834-0556  
dcichella@cscentral.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-4112  
Adagan@sco.ca.gov

**Andra Donovan**, *San Diego Unified School District*  
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103  
Phone: (619) 725-5630  
adonovan@sandi.net

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Chris Ferguson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Ferguson@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814



Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Ed Hanson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
ed.hanson@dof.ca.gov

**Michael Johnston**, *Clovis Unified School District*  
1450 Herndon Ave, Clovis, CA 93611-0599  
Phone: (559) 327-9000  
michaeljohnston@clovisusd.k12.ca.us

**Doug Kimberly**, Superintendent, *Lake Elsinore Unified School District*  
545 Chaney Street, Lake Elsinore, CA 92530  
Phone: (951) 253-7000  
Doug.Kimberly@leusd.k12.ca.us

**Jennifer Kuhn**, Deputy, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8332  
Jennifer.kuhn@lao.ca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Amy Li**, Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8358  
Amy.Li@lao.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Kathryn Meola**, General Counsel, *California School Boards Association*  
3251 Beacon Blvd., West Sacramento, CA 95691  
Phone: (916) 669-3273  
kmeola@csba.org

**Yazmin Meza**, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Yazmin.meza@dof.ca.gov

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670  
Phone: (972) 490-9990  
meredithcmiller@maximus.com

**Robert Miyashiro**, *Education Mandated Cost Network*  
1121 L Street, Suite 1060, Sacramento, CA 95814  
Phone: (916) 446-7517  
robertm@sscal.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

**Michelle Nguyen**, *Department of Finance*  
Education Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Michelle.Nguyen@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Keith Petersen**, *SixTen & Associates*  
P.O. Box 340430, Sacramento, CA 95834-0430  
Phone: (916) 419-7093  
kpbsixten@aol.com

**Mark Rewolinski**, *MAXIMUS*  
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (949) 440-0845  
markrewolinski@maximus.com

**Sandra Reynolds**, *Reynolds Consulting Group, Inc.*  
P.O. Box 894059, Temecula, CA 92589  
Phone: (951) 303-3034  
sandrareynolds\_30@msn.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Steve Shields**, *Shields Consulting Group, Inc.*  
1536 36th Street, Sacramento, CA 95816  
Phone: (916) 454-7310  
steve@shieldscg.com

**Natalie Sidarous**, Chief, *State Controller's Office*

Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717

NSidarous@sco.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

**Kent Stephens**, Chief Financial Officer, *San Juan Unified School District*

Business Services, 3738 Walnut Avenue, Carmichael, CA 95609

Phone: (916) 971-7238

kent.stephens@sanjuan.edu

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Joe.Stephenshaw@sen.ca.gov

**Amy Tang-Paterno**, Educational Fiscal Services Consultant, *California Department of Education*

Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814

Phone: (916) 322-6630

ATangPaterno@cde.ca.gov

**Jolene Tollenaar**, *MGT of America*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913

jolenetollenaar@gmail.com

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328

Brian.Uhler@LAO.CA.GOV

**Maritza Urquiza**, *Department of Finance*

Education Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Maritza.Urquiza@dof.ca.gov

**Marichi Valle**, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126

Phone: (408) 535-6141

mvalle@sjusd.org

**Elena Wilson**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: 916-323-3562

elena.wilson@csm.ca.gov



June 28, 2019

Ms. Amber Alexander  
Department of Finance  
915 L Street, 7th Floor  
Sacramento, CA 95814

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**

First Hearing: Adequate Showing  
*Academic Performance Index (01-TC-22)*, 18-MR-01  
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,  
Chapter 3; Statutes 2000, Chapter 695; as alleged to be modified by  
Statutes 2013, Chapter 47 (AB 97)  
Department of Finance, Requester

Dear Ms. Alexander:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

**Written Comments**

Written comments may be filed on the Draft Proposed Decision by **July 19, 2019**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup>

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php) on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

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<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Ms. Alexander  
June 28, 2019  
Page 2

## Hearing

This matter is set for hearing on **Friday, September 27, 2019** at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The Proposed Decision will be issued on or about September 13, 2019.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names of the people who will be speaking for inclusion on the witness list. Staff will no longer send reminder emails because the Commission does not have the resources to contact each party and interested party. Therefore, the last communication from Commission staff is the Proposed Decision which will be issued approximately two weeks prior to the hearing and it is incumbent upon the participants to let Commission staff know if they wish to testify or bring witnesses.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,



Heather Halsey  
Executive Director

**ITEM \_\_\_\_**  
**MANDATE REDETERMINATION**  
**FIRST HEARING: ADEQUATE SHOWING**  
**DRAFT PROPOSED DECISION**

Education Code Section 52056(c)  
Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1) and  
Statutes 2000, Chapter 695 (SB 1552)

*Academic Performance Index (01-TC-22)*

As Alleged to be Modified by:

Statutes 2013, Chapter 47 (AB 97)

18-MR-01

Department of Finance, Requester

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**EXECUTIVE SUMMARY**

**Overview**

On July 31, 2009, the Commission on State Mandates (Commission) adopted the Test Claim Decision finding that Education Code section 52056(c), as added by Statutes 1999, 1st Extraordinary Session, Chapter 3 and amended by Statutes 2000, Chapter 695, imposes a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.<sup>1</sup> The Commission approved the Test Claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).<sup>2</sup>

On May 27, 2010, the Commission adopted Parameters and Guidelines which also approved the following reasonably necessary activities pursuant to Government Code section 17557 and former section 1183.1 of the Commission's regulations: obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion.<sup>3</sup>

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<sup>1</sup> Exhibit B, Test Claim Statement of Decision.

<sup>2</sup> Exhibit B, Test Claim Statement of Decision.

<sup>3</sup> Exhibit C, Parameters and Guidelines, Exhibit X, Final Staff Analysis and Proposed Parameters and Guidelines, pages 6-7.

Effective July 1, 2013, Statutes 2013, chapter 47, section 102, repealed Article 4 of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, commencing with section 52056.

The Department of Finance (Finance) contends that the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Academic Performance Index*, 01-TC-22 mandate has been modified, and is no longer required, based on Statutes 2013, chapter 47, the subsequent change in law.<sup>4</sup>

### **Procedural History**

On March 8, 2019, Finance filed the Request for Mandate Redetermination.<sup>5</sup> On May 8, 2019, the State Controller (Controller) filed comments concurring with Finance’s request.<sup>6</sup> On June 28, 2019 Commission Staff issued the Draft Proposed Decision, for the first hearing.<sup>7</sup>

### **Commission Responsibilities**

Government Code section 17570 provides a process whereby a previously determined mandate finding can be redetermined by the Commission, based on a subsequent change in law. The redetermination process provides for a two-step hearing process. The Commission’s regulations state:

The first hearing shall be limited to the issue of whether the requester has made an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution. The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.<sup>8</sup>

A subsequent change in law is defined in section 17570 as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a “subsequent change in law” does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A “subsequent change in law” also does not include a change

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<sup>4</sup> Exhibit A, Request for Mandate Redetermination, pages 4-5.

<sup>5</sup> Exhibit A, Request for Mandate Redetermination, page 1.

<sup>6</sup> Exhibit D, Controller’s Comments on the Request for Mandate Redetermination.

<sup>7</sup> Exhibit E, Draft Proposed Decision, First Hearing.

<sup>8</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.<sup>9</sup>

An “adequate showing” is determined in the Commission’s regulations as follows:

The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.<sup>10</sup>

If the Commission finds, at the first hearing, that:

The requester has made an adequate showing, when considered in light of all of the written comments, rebuttals and supporting documentation in the record and testimony at the hearing, the Commission shall publish a decision finding that an adequate showing has been made and setting the second hearing on whether the Commission shall adopt a new test claim decision to supersede the previously adopted test claim decision.<sup>11</sup>

Thus, the first hearing in the mandate redetermination process is to determine, pursuant to the Government Code and the Commission’s regulations, only whether the requester has made an adequate showing that the state’s liability may be modified based on a subsequent change in law, as defined. Therefore, this analysis will be limited to whether “the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”<sup>12</sup> If the Commission finds that there has been an adequate showing, a thorough mandates analysis to determine whether and to what extent the state’s liability has been modified, considering the applicable law, the arguments put forth by the parties and interested parties, and the facts in the record, will be prepared for the second hearing on this matter.

### **Staff Analysis**

Staff finds that Finance has made an adequate showing that the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Academic Performance Index*, 01-TC-22 mandate may be modified based on a subsequent change in law, such that Finance has a substantial probability of prevailing at the second hearing.

Specifically, Statutes 2013, chapter 47, section 102, effective July 1, 2013, expressly repealed the statute that imposed the mandate.

Pursuant to Government Code section 17570(d)(4), staff recommends that the Commission hold a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.

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<sup>9</sup> Government Code section 17570(a)(2).

<sup>10</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

<sup>11</sup> California Code of Regulations, title 2, section 1190.5(a)(5)(B) (Register 2014, No. 21).

<sup>12</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).



### **Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision and, pursuant to Government Code sections 17570(b) and 17570(d)(4), direct staff to notice the second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision. If the Commission adopts the attached Proposed Decision, the second hearing for this matter will be set for November 22, 2019.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed decision following the hearing.

COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE MANDATE REDETERMINATION:  
FIRST HEARING: ADEQUATE  
SHOWING ON:

Education Code Section 52056(c)  
Statutes 1999, 1st Extraordinary Session,  
Chapter 3 (SBX1-1) and Statutes 2000,  
Chapter 695 (SB 1552)

As Alleged to be Modified by:

Statutes 2013, Chapter 47 (AB 97)

Filed on March 8, 2019

By the Department of Finance, Requester

Case No.: 18-MR-01

*Academic Performance Index (01-TC-22)*

DECISION PURSUANT TO  
GOVERNMENT CODE SECTION  
17500, ET SEQ.; CALIFORNIA CODE  
OF REGULATIONS, TITLE 2,  
DIVISION 2, CHAPTER 2.5,  
ARTICLE 7.

*(Adopted September 27, 2019)*

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Mandate Redetermination during a regularly scheduled hearing on September 27, 2019. [Witness list will be included in the adopted Decision.]

Government Code section 17570 and section 1190.1 et seq. of the Commission’s regulations establish the mandate redetermination process. In addition, the laws applicable to the Commission’s determination of a reimbursable state-mandated program are article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., title 2, California Code of Regulations 1181.1 et seq., and related case law.

The Commission adopted the Proposed Decision at the hearing by a vote of [vote will be included in the adopted Decision], and [directed/did not direct] staff to notice a second hearing to determine whether to adopt a new Test Claim Decision to supersede the previously adopted Test Claim Decision as follows:

<b>Member</b>	<b>Vote</b>
Lee Adams, County Supervisor	
Mark Hariri, Representative of the State Treasurer	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Carmen Ramirez, City Council Member	
Yvette Stowers, Representative of the State Controller, Vice Chairperson	

## **Summary of the Findings**

The Commission finds that the Department of Finance (Finance) has made an adequate showing that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution, for the *Academic Performance Index*, 01-TC-22 mandate may be modified based on a subsequent change in law, such that Finance has a substantial probability of prevailing at the second hearing. Specifically, Statutes 2013, chapter 47, section 102 expressly repealed the statute that imposed the mandate. Pursuant to Government Code section 17570(d)(4), the Commission will hold a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.

### **COMMISSION FINDINGS**

#### **I. Chronology**

- |            |   |
|------------|---|
| 03/08/2019 | Finance filed the Request for Mandate Redetermination. <sup>13</sup>                                    |
| 05/08/2019 | The State Controller's Office (Controller) filed comments on the Mandate Redetermination. <sup>14</sup> |
| 06/28/2019 | Commission staff issued the Draft Proposed Decision, First Hearing. <sup>15</sup>                       |

#### **II. Background**

On July 31, 2009, the Commission adopted the Test Claim Statement of Decision in *Academic Performance Index*, 01-TC-22, finding that Education Code section 52056(c), as added and amended by the test claim statutes imposed a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

Education Code section 52056(c) was part of the Public Schools Accountability Act of 1999 (PSAA),<sup>16</sup> which established a new statewide school accountability system.<sup>17</sup> To measure the level of achievement under the new accountability system, PSAA established the Academic Performance Index (API) as a method for measuring the performance of schools, especially the academic performance of pupils, and for demonstrating comparable improvement in academic

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<sup>13</sup> Exhibit A, Request for Mandate Redetermination.

<sup>14</sup> Exhibit D, Controller's Comments on the Request for Mandate Redetermination.

<sup>15</sup> Exhibit E, Draft Proposed Decision, First Hearing.

<sup>16</sup> Former Education Code sections 52050 -52058.

<sup>17</sup> As enacted, the Public Schools Accountability Act of 1999 consisted of three component parts: (1) the Academic Performance Index (API) [§ 52052], a method of measuring pupil performance; (2) the Intermediate Intervention/Underperforming Schools Program (II/USP) [§§ 52053 - 52055], an intervention and sanctions program to assist low-performing schools; and (3) the Governor's High Achieving/Improving Schools Program, an incentive program that rewards high-performing schools pursuant to a Governor's Performance Award Program [§§ 52056 - 52058].

achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.<sup>18</sup> The Test Claim Statement of Decision explains the API as follows:

A school's API is a number that ranges from 200 to 1000 and is calculated from the results for each school's students on statewide tests. The state has set 800 as the API target for all schools to meet. Schools that fall short of 800 are required to meet annual growth targets until that goal is achieved. API targets vary for each school.<sup>19</sup>

The PSAA also established the High Achieving/Improving Schools Program in Education Code sections 52056-52058, an incentive program that monitored schools' progress, and provided monetary and non-monetary rewards pursuant to a Governor's Performance Award Program for schools that meet or exceed performance targets or demonstrate high achievement. As part of the program, the Superintendent of Public Instruction (SPI) was required to annually rank all public schools by the value of the API in decile categories by grade level, and by the value of the API when compared to schools with similar characteristics (such as pupil ethnicity, pupil socioeconomic status, etc.), and to report the target annual growth rates of schools and the actual growth rates attained.<sup>20</sup> The SPI was also required to publish the rankings on the Internet.<sup>21</sup> The school district governing boards were then required to "discuss the results of the annual ranking" at a regularly scheduled meeting, pursuant to section 52056(c).

The Commission found that only subdivision (c) of section 52056 imposed a reimbursable state-mandated activity for the governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and the SPI's school rankings.<sup>22</sup> All other statutes and regulations pled in the Test Claim were denied.<sup>23</sup>

On May 27, 2010, the Commission adopted the Parameters and Guidelines, which also approved the following reasonably necessary activities pursuant to Government Code section 17557 and former section 1183.1 of the Commission's regulations: obtaining the annual API data from the State's website and preparing a staff report, including a PowerPoint presentation, for the governing board's discussion.<sup>24</sup> Thus, section IV of the Parameters and Guidelines identifies the reimbursable activities as follows:

For each eligible claimant, the following activity is reimbursable:

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<sup>18</sup> Former Education Code section 52052.

<sup>19</sup> Exhibit B, Test Claim Statement of Decision, page 3 (citing to California Department of Education "Parent and Guardian Guide to California's 2008-09 Accountability Progress Reporting System").

<sup>20</sup> Former Education Code section 52056(a).

<sup>21</sup> Former Education Code section 52056(a).

<sup>22</sup> Exhibit B, Test Claim Statement of Decision, page 41.

<sup>23</sup> Exhibit B, Test Claim Statement of Decision, page 41.

<sup>24</sup> Exhibit X, Final Staff Analysis and Proposed Parameters and Guidelines (Item 7), pages 6-7.

For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State’s website and preparing a staff report, including a PowerPoint presentation, for the governing board’s discussion. (Ed. Code §, 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.<sup>25</sup>

#### The Alleged Subsequent Change in Law

Statutes 2013, chapter 47, was a budget bill that replaced existing revenue limits and categorical funding provided to schools with the Local Control Funding Formula (LCFF), effective July 1, 2013. As part of the bill, section 102 repealed Article 4 of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, commencing with section 52056, thereby repealing the High Achieving/Improving Schools Program.

#### Mandate Redetermination Process under Section 17570

Government Code section 17570 provides a process for a test claim decision to be redetermined and superseded by a new test claim decision if a subsequent change in law, as defined, has modified the state’s liability for reimbursement. The redetermination process calls for a two-step hearing process. At the first hearing, the requester must make “an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state’s liability pursuant to Article XIII B, section 6(a) of the California Constitution.”<sup>26</sup> A subsequent change in law is defined in section 17570 as follows:

[A] change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a “subsequent change in law” does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on

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<sup>25</sup> Exhibit C, Parameters and Guidelines, pages 2-3, emphasis in original.

<sup>26</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

November 2, 2004. A “subsequent change in law” also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.<sup>27</sup>

An “adequate showing” is determined in the Commission’s regulations as follows:

The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.<sup>28</sup>

If the Commission finds, at the first hearing, that:

The requester has made an adequate showing, when considered in light of all of the written comments, rebuttals and supporting documentation in the record and testimony at the hearing, the Commission shall publish a decision finding that an adequate showing has been made and setting the second hearing on whether the Commission shall adopt a new test claim decision to supersede the previously adopted test claim decision.<sup>29</sup>

### **III. Positions of the Parties, Interested Parties, and Interested Persons**

#### **A. Department of Finance, Requester**

Finance asserts that Statutes 2013, chapter 47 “repealed the requirement that school district governing boards must discuss their annual ranking following the annual publication of the API school rankings.”<sup>30</sup>

Finance concludes that “the reimbursable activities identified in the Academic Performance Index Statement of Decision (01-TC-22) cease to be eligible for reimbursements effective July 1, 2018. Therefore, based on the change in law, the state’s liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution should be zero.”<sup>31</sup>

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<sup>27</sup> Government Code section 17570, as added by Statutes 2010, chapter 719 (SB 856).

<sup>28</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

<sup>29</sup> California Code of Regulations, title 2, section 1190.5(a)(5)(B) (Register 2014, No. 21).

<sup>30</sup> Exhibit A, Request for Mandate Redetermination, page 4. Finance also states that “[g]iven the repeal of the authorizing statute, any required activities pursuant to the California Code of Regulations related to the API are unsupported by statute and should no longer be a basis for mandated activities.” (Exhibit A, Request for Mandate Redetermination, page 4.) The Commission denied all regulations pled in the Test Claim, and approved only Education Code section 52056(c), as added and amended by Statutes 1999, 1st Extraordinary Session, Chapter 3 (SBX1-1), and Statutes 2000, Chapter 695 (SB 1552). (Exhibit B, Test Claim Statement of Decision, page 41.)

<sup>31</sup> Exhibit A, Request for Mandate Redetermination, page 5.

In addition, Finance states that “According to the State Controller's Office April 30, 2018, "State Mandated Program Cost Report of Unpaid Claims and Deficiency Pursuant to Government Code Section 17562(b)(2)," school districts claimed \$1,203 in 2016-17, \$1,090 in 2015-16, and \$1,182 in 2014-15 for activities related to the Academic Performance Index.”<sup>32</sup>

#### **B. State Controller’s Office**

The Controller concurs with Finance’s request to adopt a new test claim decision “to supersede the prior decision on the Academic Performance Index mandate program based upon the repeal of the authorizing statute.”<sup>33</sup>

#### **C. School Districts**

No comments have been filed by any of the eligible claimant school districts or any of the school district associations that represent them.

#### **IV. Discussion**

Under Government Code section 17570, upon request, the Commission may consider the adoption of a new test claim decision to supersede a prior test claim decision based on a subsequent change in law which modifies the states liability.

The first hearing in the mandate redetermination process is to determine, pursuant to the Government Code and the Commission’s regulations, only whether the requester has made an adequate showing that the state’s liability has been modified based on a subsequent change in law, as defined. Therefore, the analysis will be limited to whether “the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.”<sup>34</sup> If answered in the affirmative, a thorough mandates analysis to determine whether and to what extent the state’s liability has been modified, considering the applicable law, the arguments put forth by the parties and interested parties, and the facts in the record, will then be prepared for the second hearing on this matter.

#### **A. Statutes 2013, Chapter 47 Constitutes a Subsequent Change in Law, Within the Meaning of Government Code Section 17570.**

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<sup>32</sup> Exhibit A, Request for Mandate Redetermination, page 5.

<sup>33</sup> Exhibit D, Controller’s Comments on the Request for Mandate Redetermination, page 1.

<sup>34</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21). This regulation describes the standard for the first hearing as follows:

The first hearing shall be limited to the issue of whether the requester has made an adequate showing which identifies a subsequent change in law as defined by Government Code section 17570, material to the prior test claim decision, that may modify the state’s liability pursuant to article XIII B, section 6(a) of the California Constitution. The Commission shall find that the requester has made an adequate showing if it finds that the request, when considered in light of all of the written comments and supporting documentation in the record of this request, has a substantial possibility of prevailing at the second hearing.

Government Code section 17570(b) states that the Commission may adopt a new test claim decision to supersede a previously adopted test claim decision only upon a showing that, pursuant to article XIII B section 6, the state's liability has been modified based on a subsequent change in law. A subsequent change in law is defined in Government Code section 17570(a)(2) as:

A change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.<sup>35</sup>

Finance, in its request, alleges that a subsequent change in law requires a finding that there are no longer any costs mandated by the state, in that Statutes 2013, chapter 47 repealed Education Code section 52056, the statutory provision that makes up the mandate.<sup>36</sup>

Statutes 2013, chapter 47, section 102, effective July 1, 2013, repealed "Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code."<sup>37</sup> This repeal includes Education Code section 52056(c), which mandated school district governing boards to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Education Code section 52056(c) was the only test claim statute approved in the Commission's July 31, 2009 Statement of Decision,<sup>38</sup> and was the only authority found to impose reimbursable activities in the Parameters and Guidelines.<sup>39</sup> Therefore, as a result of the repeal of Education Code section 52056(c) by Statutes 2013, chapter 47, school districts are no longer incurring costs mandated by the state pursuant to Government Code section 17514 to discuss the results of the annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings.

Based on the foregoing, the Commission finds that Statutes 2013, chapter 47, constitutes a subsequent change in law, as defined.

**B. The Requester Has Made an Adequate Showing that the State's Liability May Be Modified Based on a Subsequent Change in Law.**

At this hearing, the Commission is required only to determine whether "the request, when considered in light of all of the written comments and supporting documentation in the record of

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<sup>35</sup> Government Code section 17570(a)(2).

<sup>36</sup> Exhibit A, Request for Mandate Redetermination, pages 4-5.

<sup>37</sup> Exhibit A, Request for Mandate Redetermination, page 76 (Statutes 2013, chapter 47, section 102 (AB 97)).

<sup>38</sup> Exhibit B, Test Claim Statement of Decision.

<sup>39</sup> Exhibit C, Parameters and Guidelines, pages 1-3.



this request, has a substantial possibility of prevailing at the second hearing.”<sup>40</sup> If the Commission determines that the request has a substantial possibility of prevailing at the second hearing, the Government Code provides that the Commission shall notice a second hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted Test Claim Decision.<sup>41</sup>

Here, as discussed above, the requester has identified the subsequent change in law, Statutes 2013, chapter 47, which repealed Education Code section 52056(c), the only code section approved by the Commission to impose a reimbursable state-mandated activity.

Therefore, Finance has made an adequate showing that the state’s liability may be modified based on Statutes 2013, chapter 47, such that there is a substantial possibility that the request for a new test claim decision will prevail at the second hearing on this matter.

## **V. Conclusion**

Based on the foregoing, the Commission finds that the requester has made an adequate showing that the state’s liability for the *Academic Performance Index*, 01-TC-22, mandate may be modified based on a subsequent change in law and that Finance has a substantial probability of prevailing at the second hearing. The Commission hereby directs Commission staff to notice the second hearing for November 22, 2019 to determine whether to adopt a new test claim decision to supersede the Commission’s previously adopted Test Claim Decision on *Academic Performance Index*, 01-TC-22.

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<sup>40</sup> California Code of Regulations, title 2, section 1190.5(a)(1) (Register 2014, No. 21).

<sup>41</sup> Government Code, section 17570(d)(4) (Stats. 2010, ch. 719 (SB 856)).

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

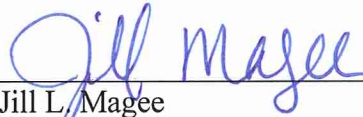
On June 28, 2019, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued June 28, 2019**

First Hearing: Adequate Showing  
*Academic Performance Index (01-TC-22)*, 18-MR-01  
Education Code Section 52056(c); Statutes 1999, 1st Extraordinary Session,  
Chapter 3; Statutes 2000, Chapter 695; as alleged to be modified by  
Statutes 2013, Chapter 47 (AB 97)  
Department of Finance, Requester

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 28, 2019 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/26/19

**Claim Number:** 18-MR-01

**Matter:** Academic Performance Index (01-TC-22)

**Requester:** Department of Finance

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Edmundo Aguilar**, Chief Counsel, *Department of Education*

1430 N Street, Sacramento, CA 95814-5901

Phone: (916) 319-0860

EAguiar@cde.ca.gov

**Amber Alexander**, *Department of Finance*

**Requester Representative/Requester Contact**

915 L Street, Sacramento, Ca

Phone: (916) 445-0328

Amber.Alexander@dof.ca.gov

**Michael Ambrose**, Associate General Counsel, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3266

mambrose@csba.org

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

**Lacey Baysinger**, Fiscal Analyst, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,

Sacramento, CA 95816

Phone: (916) 324-7876

lbaysinger@sco.ca.gov

**Mike Brown**, *School Innovations & Advocacy*  
5200 Golden Foothill Parkway, El Dorado Hills, CA 95762  
Phone: (916) 669-5116  
mikeb@sia-us.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*  
895 La Sierra Drive, Sacramento, CA 95864  
Phone: (916)595-2646  
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, *Bureau Chief, State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
gcarlos@sco.ca.gov

**Carolyn Chu**, *Senior Fiscal and Policy Analyst, Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**David Cichella**, *California School Management Group*  
3130-C Inland Empire Blvd., Ontario, CA 91764  
Phone: (209) 834-0556  
dcichella@csmincentral.com

**Andra Donovan**, *San Diego Unified School District*  
Legal Services Office, 4100 Normal Street, Room 2148, , San Diego, CA 92103  
Phone: (619) 725-5630  
adonovan@sandi.net

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Chris Ferguson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Ferguson@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Heather Halsey**, *Executive Director, Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Ed Hanson**, *Department of Finance*  
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814  
Phone: (916) 445-0328  
ed.hanson@dof.ca.gov

**Michael Johnston**, *Clovis Unified School District*  
1450 Herndon Ave, Clovis, CA 93611-0599  
Phone: (559) 327-9000  
michaeljohnston@clovisusd.k12.ca.us

**Doug Kimberly**, *Superintendent, Lake Elsinore Unified School District*  
545 Chaney Street, Lake Elsinore, CA 92530  
Phone: (951) 253-7000  
Doug.Kimberly@leusd.k12.ca.us

**Jennifer Kuhn**, *Deputy, Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8332  
Jennifer.kuhn@lao.ca.gov

**Lisa Kurokawa**, *Bureau Chief for Audits, State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Amy Li**, *Fiscal & Policy Analyst, Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8358  
Amy.Li@lao.ca.gov

**Jill Magee**, *Program Analyst, Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Kathryn Meola**, *General Counsel, California School Boards Association*  
3251 Beacon Blvd., West Sacramento, CA 95691  
Phone: (916) 669-3273  
kmeola@csba.org

**Yazmin Meza**, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Yazmin.meza@dof.ca.gov

**Meredith Miller**, *Director of SB90 Services, MAXIMUS*  
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670  
Phone: (972) 490-9990  
meredithcmiller@maximus.com

**Robert Miyashiro**, *Education Mandated Cost Network*

1121 L Street, Suite 1060, Sacramento, CA 95814

Phone: (916) 446-7517

robertm@sscal.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8320

Lourdes.Morales@LAO.CA.GOV

**Debra Morton**, Manager, Local Reimbursements Section, *State Controller's Office*Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816

Phone: (916) 324-0256

DMorton@sco.ca.gov

**Michelle Nguyen**, *Department of Finance*

Education Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328

Michelle.Nguyen@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939

andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122

apalkowitz@as7law.com

**Keith Petersen**, *SixTen & Associates*

P.O. Box 340430, Sacramento, CA 95834-0430

Phone: (916) 419-7093

kpbsixten@aol.com

**Mark Rewolinski**, *MAXIMUS*

808 Moorefield Park Drive, Suite 205, Richmond, VA 23236

Phone: (949) 440-0845

markrewolinski@maximus.com

**Sandra Reynolds**, President, *Reynolds Consulting Group, Inc.*

P.O. Box 891359, Temecula, CA 92589-1359

Phone: (888) 202-9442

reginc19@gmail.com

**Carla Shelton**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

carla.shelton@csm.ca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@csm.ca.gov

**Steve Shields**, *Shields Consulting Group, Inc.*

1536 36th Street, Sacramento, CA 95816

Phone: (916) 454-7310  
steve@shieldscg.com

**Natalie Sidarous**, Chief, *State Controller's Office*

Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717  
NSidarous@sco.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849  
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254  
DSpeciale@sco.ca.gov

**Kent Stephens**, Chief Financial Officer, *San Juan Unified School District*

Business Services, 3738 Walnut Avenue, Carmichael, CA 95609

Phone: (916) 971-7238  
kent.stephens@sanjuan.edu

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103  
Joe.Stephenshaw@sen.ca.gov

**Amy Tang-Paterno**, Educational Fiscal Services Consultant, *California Department of Education*

Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814

Phone: (916) 322-6630  
ATangPaterno@cde.ca.gov

**Jolene Tollenaar**, *MGT of America*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328  
Brian.Uhler@LAO.CA.GOV

**Michelle Valdivia**, *Department of Finance*

Education Systems Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328  
Michelle.valdivia@dof.ca.gov

**Marichi Valle**, *San Jose Unified School District*

855 Lenzen Avenue, San Jose, CA 95126

Phone: (408) 535-6141  
mvalle@sjusd.org

**Elena Wilson**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: 916-323-3562  
elena.wilson@csm.ca.gov

Hearing Date: May 27, 2010  
J:mandates/2001/tc/01tc22/psgs/fsa

**ITEM 7**  
**FINAL STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES**

Education Code Section 52056, Subdivision (c)  
Statutes 1999-2000, 1st Extraordinary Session, Chapter 3  
Statutes. 2000, Chapter 695

*Academic Performance Index*  
01-TC-22

San Juan Unified School District, Claimant

**EXECUTIVE SUMMARY**

The draft staff analysis and proposed parameters and guidelines for this claim were issued for comment on February 17, 2010. No comments were received. This item is being placed on the Commission’s consent calendar.

**Background**

The approved test claim statutes require a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and school rankings determined by the Superintendent of Public Instruction (SPI).

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision, approving this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the Academic Performance (API) and Superintendent of Public Instruction (SPI) school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

This activity is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, §1032, subd. (b).)

In addition, participation in the Intermediate Intervention/Underperforming Schools Program (II/USP), pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

On July 31, 2009, the Commission issued the Statement of Decision, and on September 3, 2009, issued the draft parameters and guidelines. On October 6, 2009, San Diego Unified School



District submitted comments stating that the approved activities should include the following additional tasks:

1. The API data (API scores, state ranks, and similar school ranks) are analyzed for changes in longitudinal performance of schools, to identify schools that change ranks (increase or decrease), to measure achievement gaps between student groups, and compare district performance with other urban districts.
2. Preparation of PowerPoint presentation.
3. Obtaining and organizing Data (county and school comparisons) from State Website for Reports.

San Diego also estimated that these tasks would take approximately 50-100 hours to complete depending on the enrollment of the school district. San Diego suggests that a reasonable reimbursement methodology be considered for this program.

Staff recommends that the Commission deny the first proposed list of activities requested by San Diego Unified School District – “The API data (API scores, state ranks, and similar school ranks) are analyzed for changes in longitudinal performance of schools, to identify schools that change ranks (increase or decrease), to measure achievement gaps between student groups, and compare district performance with other urban districts.” These activities are the subject of a subsequent statute (Ed. Code, § 52056, as amended by Stats. 2003, ch. 45) that was not pled in the test claim and cannot, by definition, be considered “the most reasonable method of complying with the mandate.”

Staff further recommends that the reimbursable activity be modified to incorporate activities that are necessary to comply with the mandate and to specify the activities that are not reimbursable as follows:

- For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State’s website and preparing a staff report, including a PowerPoint presentation, for the governing board’s discussion. (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

~~However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate~~ This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

~~Participation in the H/USP pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim are not reimbursable.~~

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare

district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

Further, since the parties have not developed or proposed a reasonable reimbursement methodology, staff recommends that the Commission adopt parameters and guidelines based on actual costs incurred.

### **Conclusion and Staff Recommendation**

Staff recommends that the Commission:

- Adopt the proposed parameters and guidelines, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

## STAFF ANALYSIS

### Claimant

Long Beach Community College District

### Chronology

06/28/2002	Claimant files test claim with the Commission on State Mandates (Commission)
07/31/2009	Commission adopts Statement of Decision <sup>1</sup>
09/03/2009	Commission issues draft parameters and guidelines <sup>2</sup>
10/06/2009	San Diego Unified School District files comments on draft parameters and guidelines <sup>3</sup>
02/17/10	Draft staff analysis and proposed parameters and guidelines issued for comment

### Summary of the Mandate

Education Code section 52056, as added and amended by the approved test claim statutes, requires a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the Academic Performance Index (API) and school rankings determined by the Superintendent of Public Instruction (SPI).

The API is calculated annually by the SPI for each school using a variety of indicators that are reported to California Department of Education. The indicators include but are not limited to the results of the STAR tests,<sup>4</sup> and the High School Exit Exam.<sup>5</sup> Attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools are also used.<sup>6</sup> Pupil data is disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group.<sup>7</sup>

The SPI is required to develop, and the State Board of Education to adopt, expected annual percentage growth targets for all schools based on their API baseline score measured from the

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<sup>1</sup> Exhibit A.

<sup>2</sup> Exhibit B.

<sup>3</sup> Exhibit C.

<sup>4</sup> The Standardized Testing and Reporting Program, or STAR, consists of four testing programs: the (1) California Standards Tests; (2) The California Achievement Tests, Sixth Edition Survey (a national norm referenced achievement test, formerly the Stanford 9); (3) Spanish Assessment of Basic Education, Second Edition; and (4) the California Alternative Performance Assessment for pupils with significant cognitive disabilities that prevent them from taking the other tests.

<sup>5</sup> Education Code section 52052, subdivision (b).

<sup>6</sup> Education Code section 52052, subdivision (a)(4). Attendance information for certificated school personnel was deleted from the API by Statutes 2004, chapter 915 (SB 722).

<sup>7</sup> Education Code section 52052, subdivision (a)(4)(B).

previous year. The minimum growth target is 5 percent of the difference between the school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target need only maintain their API score above the statewide API performance target. To meet its growth target, a school must demonstrate that all ethnic and socioeconomically disadvantaged subgroups, as defined, are making comparable improvement.<sup>8</sup>

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision, approving this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

This activity, however, is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, §1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP), pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

### **Comments Filed by San Diego Unified School District**

On October 6, 2009, San Diego Unified School District submitted comments stating that the approved activity should include the following tasks:

1. The API data (API scores, state ranks, and similar school ranks) are analyzed for changes in longitudinal performance of schools, to identify schools that change ranks (increase or decrease), to measure achievement gaps between student groups, and compare district performance with other urban districts.
2. Preparation of PowerPoint presentation.
3. Obtaining and organizing Data (county and school comparisons) from State Website for Reports

San Diego Unified School District also estimated that these tasks would take approximately 50-100 hours to complete depending on the enrollment of the school district, and suggested that a reasonable reimbursement methodology should be considered for this program.

### **Discussion**

#### ***Section III. Period of Reimbursement***

Staff added standard boilerplate language to clarify the filing deadlines for reimbursement claims, and that no reimbursement will be provided for suspended mandates.

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<sup>8</sup> Education Code section 52052, subdivision (c) (Stats. 2001, ch. 887).

Section IV. Reimbursable Activities

The Commission approved this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

San Diego Unified School District requests reimbursement for the following additional activities:

1. The API data (API scores, state ranks, and similar school ranks) are analyzed for changes in longitudinal performance of schools, to identify schools that change ranks (increase or decrease), to measure achievement gaps between student groups, and compare district performance with other urban districts.
2. Preparation of PowerPoint presentation.
3. Obtaining and organizing Data (county and school comparisons) from State Website for Reports

The Commission has the authority to include in the parameters and guidelines “the most reasonable methods of complying with the mandate.” “The most reasonable methods of complying with the mandate” is defined as “those methods *not specified in statute* or executive order that are necessary to carry out the mandated program.” (Cal. Code Regs., § 1183.1, subd. (a)(4), emphasis added.)

Staff finds that the first proposed list of activities - to analyze the API data for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts – is the subject of a different statute not included in this test claim and, thus, goes beyond the scope of the mandate determined by the Commission. The claimant pled Education Code section 52056 as last amended in 2000 (Stats. 2000, ch. 695.) Education Code section 52056, subdivision (c), simply required the governing board of the school district to discuss, at the next regularly scheduled meeting, the results of the annual ranking following the annual publication of the API and school rankings by the Superintendent of Public Instruction.

In 2003, Education Code section 52056 was subsequently amended (Stats. 2003, ch. 45) to add language consistent with San Diego Unified School District’s first proposed list of activities to analyze the data included within the API ranking. The 2003 amendment “strongly encourages” the governing board to include in the board discussion an examination by school, grade, and subgroup enumerated and in accordance with federal law, the STAR test scores. The STAR test scores are included in the API ranking.<sup>9</sup> Under the 2003 amendment, if the average STAR test scores fell below the 50<sup>th</sup> percentile, the board can conduct an assessment of the reasons for the performance results of the school, by grade; or adopt an improved performance plan that includes methods determined by the district to have been used by other schools with similar pupil populations and significantly higher pupil scores. The 2003 statute “strongly encourages”

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<sup>9</sup> Education Code section 52052, subdivision (b).

school districts to examine and analyze the data, but does not expressly mandate the activity because of mandate reimbursement costs incurred pursuant to article XIII B, section 6.<sup>10</sup>

Thus, the first proposed list of activities - to analyze the API data, which includes the STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts – is the subject of a subsequent statute that was not pled in the test claim and cannot, by definition, be considered “the most reasonable method of complying with the mandate.” Thus, staff recommends that the Commission deny the first proposed list of activities for reimbursement.

Staff further finds that the proposed activities to prepare a PowerPoint presentation for the board discussion and to obtain API data from the State’s website are activities necessary to carry out the mandated activity for the governing board to discuss the API results. Education Code section 52056, subdivision (a), requires the Superintendent Public Instruction to rank all public schools based on the API by grade level of instruction and in comparison with other schools with similar characteristics, and to report the actual and target annual growth rates attained by the schools. These rankings are annually published on the Internet. Staff finds that obtaining the API data of the district’s schools from the State’s website and preparing a staff report, including a PowerPoint report, for the Board’s discussion are activities that are necessary to carry out the mandated program. The reimbursable activity to discuss the results of the annual API ranking has been modified to add this information and to clarify what is not reimbursable as follows:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State’s website and preparing a staff report, including a PowerPoint presentation, for the governing board’s discussion. (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

~~However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate.~~ This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

~~Participation in the II/USP pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim are not reimbursable.~~

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

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<sup>10</sup> Exhibit D, Senate Rules Committee, Third Reading Analysis, Assembly Bill 36 (2003-04 Leg. Sess.), dated June 17, 2003, page 3

Section V. Claim Preparation and Submission

Reasonable Reimbursement Methodology

San Diego Unified School District suggests that the Commission consider a reasonable reimbursement methodology for this program, as follows:

It is estimated the aforementioned tasks take approximately 50-100 hours to complete depending on the enrollment of the school district. The tasks are performed by supervisors and managers. Accordingly, a reasonable reimbursement methodology should be considered for this program.

No party however, has proposed a reasonable reimbursement methodology and the Commission is not authorized to propose a reasonable reimbursement methodology on its own motion. Government Code section 17518.5 states that a reasonable reimbursement methodology may be developed by any of the following parties:

1. Department of Finance.
2. The Controller.
3. An affected state agency.
4. A claimant.
5. An interested party.

The reasonable reimbursement methodology must be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies or school districts, or other projections of local costs. In addition, the proposed methodology shall consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner.<sup>11</sup>

Therefore, since the parties listed above have not developed a reasonable reimbursement methodology for these parameters and guidelines, staff recommends that the Commission adopt the parameters and guidelines based on actual costs incurred.

**Conclusion and Staff Recommendation**

Staff recommends that the Commission:

- Adopt the proposed parameters and guidelines, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

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<sup>11</sup> Government Code section 17518.5, subdivisions (b) and (c).

## **PROPOSED PARAMETERS AND GUIDELINES**

Education Code Section 52056, Subdivision (c)

Statutes 1999, 1<sup>st</sup> Extraordinary Session, Chapter 3  
Statutes 2000, Chapter 695

*Academic Performance Index*  
01-TC-22

San Juan Unified School District, Claimant

### **I. SUMMARY OF THE MANDATE**

~~The approved test claim statutes~~ Education Code section 52056, subdivision (c), as added and amended by the test claim statutes, requires a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the ~~Academic Performance Index (API)~~ and Superintendent of Public Instruction (SPI) school rankings.

On July 31, 2009, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim ~~legislation~~ statutes imposes a partially reimbursable state-mandated program upon school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activity:

- For a school district governing board to discuss the results of its annual ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695).

However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

Participation in the Intermediate Intervention/Underperforming Schools Program (II/USP) ~~H/USP~~ pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim do not constitute a reimbursable state mandate.

### **II. ELIGIBLE CLAIMANTS**

Any "school district" as defined in Government Code section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.



### III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The San Juan Unified School District filed the test claim on June 28, 2002, establishing eligibility for reimbursement for the 2000-2001 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2000.

#### Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, a school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c) between November 15 and February 15, a school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

### IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activity is reimbursable:

- For a school district governing board to discuss the results of its annual Academic Performance Index (API) ranking at the next regularly scheduled meeting following the annual publication of the API and SPI school rankings. Reimbursement is allowed for obtaining the annual API data from the State’s website and preparing a staff report, including a PowerPoint presentation, for the governing board’s discussion. (Ed. Code § 52056, subd. (c), Stats. 1999-2000 1st Ex. Sess., ch. 3, eff. Jun. 25, 1999, Stats. 2000, ch. 695.)

~~However, districts discussing the results of the annual API and SPI rankings (in § 52056, subd. (c)) is not a reimbursable mandate.~~ This activity is **not** reimbursable for schools with fewer than 100 valid test scores, or schools in the alternative accountability system that are under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, alternative schools, including continuation high schools and opportunity schools and independent study schools. (Ed. Code, § 52052, subd. (f)(1), Stats. 2001, ch. 887 & Cal. Code Regs., tit. 5, § 1032, subd. (b).)

~~Participation in the H/USP pursuant to section 52053, subdivisions (d) and (j), and all other test claim statutes and regulations pled in the test claim are not reimbursable.~~

In addition, reimbursement is **not** required to analyze the API data, including STAR test scores, for changes in longitudinal performance of schools, to identify schools that change ranks, to measure achievement gaps between student groups, and to compare district performance with other urban districts pursuant to Education Code section 52056, subdivisions (c) and (d), as amended by Statutes 2003, chapter 45.

## V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

#### 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

### 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

## B. Indirect Cost Rates

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING REVENUES AND REIMBURSEMENTS**

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.