

Assembly Bill No. 2756

CHAPTER 52

An act to amend Sections 33127, 33128, 41020.5, 41320.1, 41326, 41326.1, 41327, 41328, 41474, 42127, 42127.1, 42127.6, and 42127.8 of, and to add Sections 41327.1, and 41327.2 to, the Education Code, and to amend Sections 3540.2, 3547.5, and 53260 of the Government Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 21, 2004. Filed with
Secretary of State June 21, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2756, Daucher. School district administration: budgeting and finance.

(1) Existing law provides standards and criteria to be used by local educational agencies in the development and management of annual budgets.

This bill would require the Superintendent of Public Instruction, the Controller, and the Director of the Department of Finance to update these standards and criteria on or before September 1, 2005. The bill would specify additional standards and criteria to be developed in this update.

(2) Existing law requires the Controller to notify a certified public accountant or public accountant and the California Board of Accountancy whenever he or she determines that school district audits performed by the certified public accountant or public accountant were not performed in substantial conformity with the audit guide for local educational agencies. Existing law provides that if the Controller's determination becomes final, the certified public accountant or public accountant is ineligible to conduct audits, as specified.

This bill would require a county superintendent of schools to provide similar notifications after determining that audits were not performed in substantial conformity with the audit guide.

(3) Existing law provides emergency apportionments for school districts that have become insolvent, and requires various actions to be taken by the school district and the Superintendent of Public Instruction to receive these apportionments, including the appointment of a trustee, the appointment of an administrator, and the approval of recovery plans.

This bill would revise these procedures.

(4) Existing law requires the governing board of a school district to annually prepare a budget for the district with certain requirements and



to submit that budget to the county superintendent of schools for approval. If the county superintendent of schools disapproves of the budget, existing law requires him or her to call for the formation of a budget review committee unless the governing board of the school district and the county superintendent of schools agree to waive a budget review committee.

This bill would permit a county superintendent of schools to conditionally approve a school district budget, or if no budget is submitted, to prepare a budget for the school district, as specified. The bill would require a county superintendent of schools to follow certain procedures in approving the budget of a school district. The bill would permit the Superintendent of Public Instruction to suspend the authority of the county superintendent of schools over the financial affairs of school districts, with certain requirements, and exercise that authority, if certain conditions exist.

(5) Existing law requires the governing board of a school district to prepare an annual statement of all receipts and expenditures of the school district for the preceding fiscal year.

This bill would require a school district to also include a statement of all compensation received by the superintendent and all personnel with management, policymaking, and advisory responsibilities, who report directly to the superintendent of the school district.

(6) Existing law creates the County Office Fiscal Crisis and Management Assistance Team, which the Superintendent of Public Instruction may request to perform various duties, including, but not limited to, reviewing the fiscal and administrative condition of any county office of education.

This bill, in addition, would permit the County Office Fiscal Crisis and Management Assistance Team to review the fiscal and administrative condition of a school district or charter school. The bill would require the County Office Fiscal Crisis and Management Assistance Team to request and review applications to establish regional teams of education finance experts throughout the state, with certain requirements.

(7) Under existing law, a school district that has a qualified or negative certification as to its ability to meet its obligations during the fiscal year is required to allow the county office of education at least 6 working days to review and comment on any proposed collective bargaining agreement and to provide that office with information on the financial impact of that agreement. Existing law also requires the Superintendent of Public Instruction to develop a format for use in generating this information.



This bill would increase the time allotted to a county office of education to review the agreement or contract to 10 working days. The bill would also require the district superintendent, chief business official, president of the school board, and any other member of the school board voting in support of the agreement to certify that the school district can meet the costs incurred during the term of the agreement. By placing additional requirements on a school district and county superintendent of schools, this bill would create a state-mandated local program.

(8) Existing law requires contracts of employment between an employee and a local educational agency to include a provision that specifies that upon termination, the maximum cash settlement that an employee may receive is an amount equal to a month's salary under the agreement multiplied by the number of months left on the unexpired term of the contract. Existing law provides, however, that if the unexpired term of the contract is greater than 18 months, the maximum cash settlement is required to be equal to the monthly salary of the employee multiplied by 18.

This bill would prohibit a local agency employer from providing a cash or noncash settlement to its district superintendent of schools, with certain requirements, upon his or her termination in an amount greater than the superintendent's monthly salary multiplied by 6, if certain conditions exist.

(9) This bill also makes technical, nonsubstantive changes to existing law.

(10) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

(11) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 33127 of the Education Code is amended to read:



33127. (a) The Superintendent of Public Instruction, the Controller, and the Director of the Department of Finance shall develop, on or before March 1, 1989, standards and criteria to be reviewed and adopted by the State Board of Education, 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 of Public Instruction 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 prior to 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 of Public Instruction, the Controller, and the Director of the Department 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) After September 1, 2005, to the extent necessary, any revisions or updates to the standards and criteria shall be developed by the Superintendent of Public Instruction, the Controller, and the Director of the Department of Finance pursuant the procedures established by subdivision (a). The revisions or updates shall specify the fiscal year in which the revisions or updates are applicable.

SEC. 2. Section 33128 of the Education Code, as amended by Section 6.7 of Chapter 1168 of the Statutes of 2002, is amended to read:

33128. (a) The standards and criteria to be adopted by the State Board of Education pursuant to Section 33127 shall include, but not be limited to, comparisons and reviews, including appropriate methods of projection, of all of the following:

- (1) Average daily attendance.
- (2) Revenues and expenditures.
- (3) Reserves and fund balance.
- (4) Multiyear commitments, including cost-of-living adjustments.

(b) In addition to the requirements of subdivision (a), the standards and criteria to be adopted by the State Board of Education pursuant to Section 33127 shall include, but not be limited to, all of the following:



(1) Clear definitions and guidelines for positive, qualified, and negative interim financial certifications pursuant to Sections 42130 and 42131.

(2) District financial health indicators to provide a comprehensive review and assessment of the financial condition of districts and to help identify districts that are developing financial problems before the problems become severe. The indicators shall take into account issues including, but not limited to, all of the following:

(A) Increasing or decreasing balances available for general purposes and general purpose reserve size relative to the standard for the district.

(B) Long-term commitments for rates of increase in significant cost centers that are more or less than current revenue growth rate projections, including the projected cost change of the workforce taking into account the progression of newer hires and existing staff through the salary schedule and likely turnover, and all compensation for the superintendent of the school district and executive positions reporting directly to the superintendent of the school district.

(C) Use of one-time revenues for ongoing costs.

(D) Use of ongoing revenues for one-time costs.

(E) Appropriate recognition and amortization of future commitments including any district-created benefit program.

(F) Facilities maintenance funding adequate to preserve functionality of facilities for their normal life.

SEC. 3. Section 41020.5 of the Education Code is amended to read:

41020.5. (a) If the Controller determines by two consecutive quality control reviews pursuant to Section 14504.2, or if a county superintendent of schools determines, that audits performed by a certified public accountant or public accountant under Section 41020 were not performed in substantial conformity with provisions of the audit guide, or that the audit reports, including amended reports, submitted by February 15 following the close of the fiscal year audited, for two consecutive years do not conform to provisions of the audit guide as required by Section 14504, the Controller or the county superintendent of schools, as appropriate, shall notify in writing the certified public accountant or public accountant and the California Board of Accountancy.

If the certified public accountant or public accountant does not file an appeal in writing with the California Board of Accountancy within 30 calendar days after receipt of the notification from the Controller or county superintendent of schools, the determination of the Controller or county superintendent of schools under this section shall be final.

(b) If an appeal is filed with the California Board of Accountancy, the board shall complete an investigation of the appeal within 90 days of the



filing date. On the basis of the investigation, the board may do either of the following:

(1) Find that the determination of the Controller or county superintendent of schools should not be upheld and has no effect.

(2) Schedule the appeal for a hearing, in which case, the final action on the appeal shall be completed by the board within one year from the date of filing the appeal.

(c) If the determination of the Controller or county superintendent of schools under subdivision (a) becomes final, the certified public accountant or public accountant shall be ineligible to conduct audits under Section 41020 for a period of three years, or, in the event of an appeal, for any period, and subject to the conditions, that may be ordered by the California Board of Accountancy. Not later than the first day of March of each year, the Controller shall notify each school district and county office of education of those certified public accountants or public accountants determined to be ineligible under this section. School districts and county offices of education shall not use the audit services of a certified public accountant or public accountant ineligible under this section.

For the purposes of this section, the term “certified public accountant or public accountant” shall include any person or firm entering into a contract to conduct an audit under Section 41020.

This section shall not preclude the California Board of Accountancy from taking any disciplinary action it deems appropriate under other provisions of law.

SEC. 4. Section 41320.1 of the Education Code is amended to read:

41320.1. Acceptance by the district of the apportionments made pursuant to Section 41320 constitutes the agreement by the district to all of the following conditions:

(a) The Superintendent of Public Instruction shall appoint a trustee who has recognized expertise in management and finance and may employ, on a short-term basis, any staff necessary to assist the trustee, including, but not limited to, certified public accountants, as follows:

(1) The expenses incurred by the trustee and any necessary staff shall be borne by the district.

(2) The Superintendent shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall serve at the pleasure of, and report directly to, the Superintendent.

(3) The trustee, and any necessary staff, shall serve until the loan authorized by this section is repaid, the district has adequate fiscal systems and controls in place, and the Superintendent has determined that the district’s future compliance with the fiscal plan approved for the district under Section 41320 is probable. The Superintendent shall notify



the county superintendent of schools, the Legislature, the Department of Finance, and the Controller no less than 60 days prior to the time that the Superintendent expects these conditions to be met.

(4) Before the district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the Superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the Superintendent may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the district.

(5) Notwithstanding any other law, all reports submitted to the trustee are public records.

(6) To facilitate the appointment of the trustee and the employment of any necessary staff, for the purposes of this section, the Superintendent is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contracts Code.

(7) Notwithstanding any other law, the Superintendent may appoint an employee of the department to act as trustee for up to the duration of the trusteeship. The salary and benefits of that employee shall be established by the Superintendent and paid by the school district. During the time of appointment, the employee is an employee of the school district, but shall remain in the same retirement system under the same plan as if the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(b) The trustee appointed by the Superintendent shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The Superintendent may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the district. The trustee shall approve or reject all reports and other materials required from the district as a condition of receiving the apportionment. The Superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars (\$200) per day for each late or unacceptable report or other material



required under Part 24 (commencing with Section 41000), and shall report to the Legislature any failure of the district to comply with the requirements of this section. If the Superintendent determines, at any time, that the fiscal plan approved for the district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

(c) At the request of the Superintendent, the Controller shall transfer to the department, from any apportionment to which the district would otherwise have been entitled pursuant to Section 42238, the amount necessary to pay the expenses incurred by the trustee and any associated costs incurred by the county superintendent of schools.

(d) For the fiscal year in which the apportionments are disbursed and each year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, in lieu of the audit required by Section 41020. At the Controller's discretion, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the district and approved by the Controller. The costs of these audits shall be borne by the district. These audits shall be required until the Controller determines, in consultation with the Superintendent, that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2.

(e) For all purposes of errors and omissions liability insurance policies, the trustee appointed pursuant to this section is an employee of the local education agency to which he or she is assigned. For the purpose of workers' compensation benefits, the trustee is an employee of the local education agency to which he or she is assigned, except that a trustee appointed pursuant to paragraph (7) of subdivision (a) is an employee of the department for that purpose.

(f) Except for an individual appointed by the Superintendent as trustee pursuant to paragraph (7) of subdivision (a), the state-appointed trustee is a member of the State Teachers' Retirement System, if qualified, for the period of service as trustee, unless the trustee elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the trustee chooses to become a member or is already a member, the trustee shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the system. The Superintendent may also require that any individual appointed as trustee pursuant to paragraph (7) of subdivision (a) be



placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions. For the purpose of workers' compensation benefits, the state-appointed trustee is deemed an employee of the local education agency to which he or she is assigned, except that a trustee who is appointed pursuant to paragraph (7) of subdivision (a) is an employee of the department for that purpose.

SEC. 5. Section 41326 of the Education Code is amended to read:

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that district under the standards and criteria adopted pursuant to Section 33127 constitutes the agreement by the district to the conditions set forth in this article. Prior to applying for an emergency apportionment in the amount identified in this subdivision, a school district governing board shall discuss the need for that apportionment at a regular or special meeting of the governing board and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the district, and other members of the community. For purposes of this article, "qualifying school district" means a school district that accepts a loan as described in this subdivision.

(b) The Superintendent shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent, in consultation with the county superintendent of schools, shall appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision in accordance with all of the following:

(1) The administrator shall serve under the direction and supervision of the Superintendent until terminated by the Superintendent at his or her discretion. The Superintendent shall consult with the county superintendent of schools before terminating the administrator.

(2) The administrator shall have recognized expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of any necessary staff, for the purposes of this section, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contracts Code.

(4) Notwithstanding any other law, the Superintendent may appoint an employee of the state or the office of the county superintendent of schools to act as administrator for up to the duration of the administratorship. During the tenure of his or her appointment, the



administrator, if he or she is an employee of the state or the office of the county superintendent, is an employee of the school district, but shall remain in the same retirement system under the same plan that has been provided by his or her employment with the state or the office of the county superintendent. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state or the office of the county superintendent. The time served in the appointment shall be counted for all purposes as if the administrator had served that time in his or her former position with the state or the office of the county superintendent.

(5) Except for an individual appointed as an administrator by the Superintendent of Public Instruction pursuant to paragraph (4), the administrator shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For the purposes of workers' compensation benefits, the administrator is an employee of the qualifying district, except that an administrator appointed pursuant to paragraph (4) may be deemed an employee of the state or office of the county superintendent, as applicable.

(7) The qualifying district shall add the administrator as a covered employee of the school district all for purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the Superintendent of Public Instruction and paid by the qualifying school district.

(9) The Superintendent or the administrator may, on a short-term basis, employ at district expense any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

(A) Implement substantial changes in the fiscal policies and practices of the district, including, if necessary, the filing of a petition under



Chapter 9 of the federal Bankruptcy Code for the adjustment of indebtedness.

(B) Revise the educational program of the district to reflect realistic income projections and pupil performance relative to state standards.

(C) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the district.

(D) Consult, for the purposes described in this subdivision, with the governing board of the school district, the exclusive representatives of the employees of the district, parents, and the community.

(E) Consult with, and seek recommendations from, the Superintendent, county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team authorized pursuant to subdivision (c) of Section 42127.8 for the purposes described in this article.

(F) With the approval of the Superintendent, enter into agreements on behalf of the district and, subject to any contractual obligation of the district, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in Sections 41327 and 41327.1.

(c) (1) For the period of time during which the Superintendent of Public Instruction exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, and has no rights, duties, or powers, and is not entitled to any stipend, benefits, or other compensation from the district.

(2) Upon the appointment of an administrator pursuant to this section, the district superintendent of schools is no longer an employee of the district.

(3) A determination of the severance compensation for the district superintendent shall be made pursuant to subdivision (j).

(d) Notwithstanding Section 35031 or any other law, the administrator may, after according the employee reasonable notice and the opportunity for a hearing, terminate the employment of any deputy, associate, assistant superintendent of schools, or any other district level administrator who is employed by a school district under a contract of employment signed or renewed after January 1, 1992, if the employee fails to document, to the satisfaction of the administrator, that prior to the date of the acceptance of the apportionment he or she either advised the governing board of the district, or his or her superior, that actions contemplated or taken by the governing board could result in the fiscal insolvency of the district, or took other appropriate action to avert that fiscal insolvency.



(e) The authority of the Superintendent, and the administrator, under this section shall continue until all of the following occur:

(1) (A) One complete fiscal year has elapsed following the district's acceptance of a loan as described in subdivision (a), or, at any time after one complete fiscal year has elapsed following that acceptance, the administrator determines, and so notifies the Superintendent and the county superintendent of schools, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(B) The Superintendent may return power to the governing board for any area listed in subdivision (a) of Section 41327.1 if performance under the recovery plan for that area has been demonstrated to the satisfaction of the Superintendent.

(2) The Superintendent has approved all of the recovery plans referred to in subdivision (a) of Section 41327 and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 and has completed a minimum of two reports identifying the district's progress in implementing the improvement plans.

(3) The administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The district has completed all reports required by the Superintendent and the administrator.

(5) The Superintendent determines that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, and at least 60 days after the Superintendent of Public Instruction has notified the Legislature, the Department of Finance, the Controller, and the county superintendent of schools that he or she expects the conditions prescribed pursuant to this section to be met, the school district governing board shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent shall appoint a trustee under Section 41320.1 to monitor and review the operations of the district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), if the district violates any provision of the recovery plans approved by the Superintendent pursuant to this article within five years after the trustee appointed pursuant to Section 41320.1 is removed, the Superintendent may reassume, either directly or through an administrator appointed in accordance with this



section, all of the legal rights, duties, and powers of the governing board of the district. The Superintendent shall return to the school district governing board all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(h) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(i) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

(j) The district superintendent is entitled to a due process hearing for purposes of determining final compensation. The final compensation of the district superintendent shall be between zero and six times his or her monthly salary. The outcome of the due process hearing shall be reported to the Superintendent of Public Instruction and the public. The information provided to the public shall explain the rationale for the compensation.

(k) (1) When the Superintendent assumes control over a school district pursuant to subdivision (b), he or she shall, in consultation with the County Office Fiscal Crisis and Management Assistance Team, review the fiscal oversight of the district by the county superintendent of schools. The Superintendent may consult with other fiscal experts, including other county superintendents of schools and regional fiscal teams in conducting this review.

(2) Within three months of assuming control over a qualifying district, the Superintendent shall report his or her findings to the Legislature and shall provide a copy of that report to the Department of Finance. This report shall include findings as to fiscal oversight actions that were or were not taken and may include recommendations as to an appropriate legislative response to improve fiscal oversight.

(3) If after performing the duties described in paragraphs (1) and (2), the Superintendent determines that the county superintendent failed to carry out his or her responsibilities for fiscal oversight as required by this code, the Superintendent may exercise the authority of the county superintendent of schools who has oversight responsibilities for a qualifying school district. If the Superintendent finds, based on the report required in paragraph (1), that the county superintendent failed to appropriately take into account particular types of indicators of financial distress or failed to take appropriate remedial actions in the qualifying



district, the Superintendent shall further investigate whether the county superintendent failed to take into account those indicators or similarly failed to take appropriate actions in other districts with negative or qualified certifications and shall provide an additional report on the fiscal oversight practices of the county superintendent to the appropriate policy and fiscal committees of each house of the Legislature and the Department of Finance.

SEC. 6. Section 41326.1 of the Education Code is amended to read:

41326.1. (a) Within 30 days of assuming authority, an administrator who has control over a school district pursuant to subdivision (b) shall discuss options for resolving the fiscal problems of the district with all of the following groups and shall consider, on a monthly basis, or more frequently if so desired by the administrator, information from one or more of the following groups:

- (1) The governing board of the school district.
- (2) Any advisory council of the school district.
- (3) Any parent-teacher organization of the school district.
- (4) Representatives from the community in which the school district is located.
- (5) The district administrative team.
- (6) The County Office Fiscal Crisis and Management Assistance Team.
- (7) Representatives of employee bargaining units.
- (8) The county superintendent of schools.

(b) This section applies to a school district that has an administrator pursuant to Section 41326 and is under the control of the administrator for purposes of demonstrating academic progress pursuant to a plan of action to improve the school district.

SEC. 7. Section 41327 of the Education Code is amended to read:

41327. (a) In accordance with timelines, instructions, and a format established by the Superintendent, the state-appointed administrator shall prepare or obtain the following reports and plans:

- (1) A management review and recovery plan.
- (2) A multiyear financial recovery plan. The multiyear financial recovery plan shall include a plan, to be submitted annually on or before July 1, to repay to the state any and all loans owed by the district. Pursuant to the multiyear financial recovery plan, the repayment by the district of any state loans shall comply with all of the following, notwithstanding any provision of Article 2 (commencing with Section 41320):

(A) The loan or loans shall be repaid over a period of no more than 20 years following the initial disbursement of moneys under a loan as described in subdivision (a) of Section 41326. The repayment of the loan



or loans shall commence not later than the fiscal year following the year in which the loan described in that subdivision is made.

(B) Interest shall accrue on the loan or loans as of the date the funds are received, at the average annual investment rate of the state’s pooled money investment account.

(3) During the period of service by the state-appointed administrator, an annual report on the financial condition of the district, including, but not necessarily limited to, all of the following information:

(A) Specific actions taken to reduce district expenditures or increase income to the district, and the amount of the resulting cost savings and increases in income.

(B) A copy of the adopted district budget for the current fiscal year.

(C) The amount of the district budgetary reserve.

(D) The status of employee contracts.

(E) Any obstacles to the implementation of the recovery plans described in paragraphs (1) and (2).

(b) Each of the reports or plans required under this section, or under any other provision of law that requires the district to prepare reports or plans, shall be submitted to the Superintendent of Public Instruction for approval, after his or her consideration of comments and recommendations of the county superintendent of schools. The Superintendent may accept and approve, for the purposes of this section, any reports or plans that were prepared by or for the district prior to the district’s acceptance of a loan as described in subdivision (a) of Section 41326.

(c) With the approval of the Superintendent, the state-appointed administrator may enter into agreements on behalf of the district and, subject to any contractual obligation of the district, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in subdivision (a).

SEC. 8. Section 41327.1 is added to the Education Code, to read:

41327.1. (a) The State Board of Education shall adopt and may periodically update by regulation a comprehensive list of professional and legal standards that all districts are encouraged to use as a guide to conduct a good educational program and fiscal and management practices that shall be used as the basis of evaluating the improvement of qualifying districts pursuant to this article. These standards shall, at a minimum, address all of the following areas:

- (1) Financial management.
- (2) Pupil achievement.
- (3) Personnel management.
- (4) Facilities management.



(5) Community relations.

(b) If an administrator is appointed pursuant to Section 41326, the County Office Fiscal Crisis and Management Assistance Team established pursuant to Section 42127.8 shall conduct comprehensive assessments in the five areas specified in subdivision (a).

(c) After the assessments specified in subdivision (b) are completed, the Superintendent, in consultation with the County Office Fiscal Crisis and Management Assistance Team and the county superintendent of schools, shall determine, based upon the district's particular needs and circumstances, the level of improvement needed in the standards adopted pursuant to subdivision (a) before local authority will be returned pursuant to subdivision (f) of Section 41326. Based upon this determination, the County Office Fiscal Crisis and Management Assistance Team shall complete improvement plans in the five areas specified in subdivision (a) that focus on the agreed upon standards, and that are consistent with the financial improvement plan.

(d) Beginning six months after an emergency loan is approved, and every six months thereafter until local authority is returned pursuant to subdivision (f) of Section 41326, the County Office Fiscal Crisis and Management Assistance Team shall file a written status report with the appropriate fiscal and policy committees of the Legislature, the Members of the Legislature that represent the qualifying district, any advisory council of the school district, the Superintendent, the county superintendent of schools, the Director of Finance, and the Secretary for Education. The reports shall indicate the progress that the district is making in meeting the recommendations of the improvement plans developed pursuant to this section.

(e) If the County Office Fiscal Crisis and Management Assistance Team indicates in writing that it has insufficient resources to complete the comprehensive assessments, improvement plans, and progress reports required pursuant to this section, the department shall request proposals to complete these tasks, and subject to the approval of the Department of Finance, select an entity to complete the tasks assigned to the County Office Fiscal Crisis and Management Assistance Team pursuant to this section.

SEC. 9. Section 41327.2 is added to the Education Code, to read:

41327.2. (a) The appointment of an administrator pursuant to Section 41326 does not remove any statutory rights, duties, or obligations from the county superintendent of schools. The county superintendent of schools retains the responsibility to superintend school districts under his or her jurisdiction.

(b) The county superintendent of schools shall submit reports to the Superintendent, the appropriate fiscal and policy committees of the



Legislature, the Director of Finance, and the Secretary for Education subsequent to review by the county superintendent of schools of the district's budget and interim reports in accordance with subdivisions (d) and (g) of, and paragraph (3) of subdivision (i) of, Section 42127, and paragraph (2) of subdivision (a) of, and subdivision (e) of, Section 42121. These reports shall document the fiscal and administrative status of the qualifying district, particularly in regard to the implementation of fiscal and management recovery plans. Each report shall also include a determination of whether the revenue streams to the district appear to be consistent with its expenditure plan, according to the most recent data available at the time of the report. These reports are required until six months after all rights, duties, and powers are returned to the school district pursuant to this article.

SEC. 10. Section 41328 of the Education Code is amended to read:

41328. The qualifying district shall bear 100 percent of all costs associated with implementing this article, including the activities of the County Office Fiscal Crisis and Management Team or the regional team. The Superintendent shall withhold from the apportionments to be made from the State School Fund to the district the amounts due pursuant to this section. The costs referred to in this section do not include the principal and interest on the emergency apportionment, which shall be paid by the district in accordance with this article.

SEC. 11. Section 41474 of the Education Code is amended to read:

41474. Notwithstanding Sections 41471 and 41472, the school district may submit a request to the Director of Finance to have the interest rate on the remaining outstanding balance of its emergency apportionments changed to reflect the investment rate of the Pooled Money Investment Account as reported by the State Controller's office for the immediately preceding fiscal year. Upon receipt of the request, the Director of Finance shall change the interest rate pursuant to this section. A change in the interest rate does not change other terms of the repayment schedule.

SEC. 12. 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 prior to the public hearing and shall include the location where the budget will be available for public inspection.

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget and supporting



data shall be maintained and made available for public review. If the governing board of the 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.

(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 or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes that exceed apportionments to the 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 or the county auditor to compute the amounts. On or before August 15, the county superintendent 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 of Education pursuant to Section 33127 for application to final local educational agency budgets. The county superintendent shall identify, if necessary, any 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 district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the 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 district, the county superintendent, 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 district will meet its current and future obligations and resolve any problems identified in studies, reports, evaluations, or audits described in this paragraph.

(d) On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall, at district expense, develop 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 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 conditionally approve that budget. The county superintendent of schools may assign a fiscal adviser to assist the 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 superintendent no later than August 20.

(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. Prior to revising the budget, the governing board shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. The revised budget and supporting data shall be maintained and made available for public review.

(f) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent of Public Instruction 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 of Education pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the 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 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 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. 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 district, including a 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.

(h) Not later than October 8, the county superintendent of schools shall submit a report to the Superintendent of Public Instruction 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 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) of this subdivision, rather than by subdivisions (e) and (g), if the governing board of the school district so elects and notifies the county superintendent 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 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 will provide a list to the Superintendent of Public Instruction 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 district, including a 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.

(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 is not subject to subdivisions (c) to (h), inclusive, but is governed instead by the budget procedures set forth in Section 1622.



SEC. 13. Section 42127.1 of the Education Code is amended to read:

42127.1. (a) Pursuant to subdivision (g) or (i) of Section 42127, upon the disapproval of a school district budget by the county superintendent, the county superintendent shall call for the formation of a budget review committee 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 district, including a 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.

(b) The budget review committee shall be composed of three persons selected by the governing board of the school district from a list of candidates provided to the governing board by the Superintendent of Public Instruction. The list of candidates shall be composed of persons who have expertise in the management of a school district or county office of education. Their experience shall include, but not be limited to, the fiscal and educational aspects of local educational agency management.

(c) Notwithstanding subdivision (b) or any other provision of this article, with the approval of the Superintendent and the governing board of the school district, the county superintendent of schools may select and convene a regional review committee, consisting of persons having the expertise described in that subdivision. The regional review committee shall operate in place of the budget review committee, in accordance with the provisions of this article governing budget review committees.

(d) Members of the committee shall be reimbursed by the department for their services and associated expenses while on official business at rates established by the State Board of Education.

SEC. 14. Section 42127.6 of the Education Code is amended to read:



42127.6. (a) (1) A school district shall provide the county superintendent of schools with a copy of a study, report, evaluation, or audit that was commissioned by the district, the county superintendent, the Superintendent, and state control agencies and that contains evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section 33127, or a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Section 42127.8. The county superintendent shall review and consider studies, reports, evaluations, or audits of the school district that contain evidence that the school district is demonstrating 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. If these findings are made, the county superintendent shall investigate the financial condition of the school district and determine if the school district may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative interim financial certification pursuant to Section 42131. If at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or if a school district has a qualified or negative certification pursuant to Section 42131, he or she shall notify the governing board of the school district and the Superintendent in writing of that determination and the basis for the determination. The notification shall include the assumptions used in making the determination and shall be available to the public. The county superintendent of schools shall report to the Superintendent on the financial condition of the school district and his or her proposed remedial actions, and shall do at least one of the following, and all actions that are necessary, to ensure that the district meets its financial obligations:

(A) Assign a fiscal expert, paid for by the county superintendent, to advise the district on its financial problems.

(B) Conduct a study of the financial and budgetary conditions of the district that includes, but is not limited to, a review of internal controls. If, in the course of this review, the county superintendent determines that his or her office requires analytical assistance or expertise that is not available through the district, he or she may employ, on a short-term basis, with the approval of the Superintendent, staff, including certified public accountants, to provide the assistance and expertise. The school



district shall pay 75 percent and the county office of education shall pay 25 percent of these staff costs.

(C) Direct the school district to submit a financial projection of all fund and cash balances of the district as of June 30 of the current year and subsequent fiscal years as he or she requires.

(D) Require the district to encumber all contracts and other obligations, to prepare appropriate cashflow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(E) Direct the district to submit a proposal for addressing the fiscal conditions that resulted in the determination that the district may not be able to meet its financial obligations.

(F) Withhold compensation of the members of the governing board and the district superintendent for failure to provide requested financial information. This action may be appealed to the Superintendent of Public Instruction pursuant to subdivision (b).

(2) Any contract entered into by a county superintendent of schools for the purposes of this subdivision is subject to the approval of the Superintendent.

(3) An employee of a school district who provides information regarding improper governmental activity, as defined in Section 44112, is entitled to the protection provided pursuant to Article 5 (commencing with Section 44110) of Chapter 1 of Part 25.

(b) Within five days of the county superintendent making the determination specified in subdivision (a), a school district may appeal the basis of the determination, and any of the proposed actions that the county superintendent has indicated that he or she will take to further examine the financial condition of the district. The Superintendent shall sustain or deny any or all parts of the appeal within 10 days.

(c) If, after taking the actions identified in subdivision (a), the county superintendent determines that a district will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the school district governing board and the Superintendent in writing of that determination and the basis for that determination. The notification shall include the assumptions used in making the determination and shall be provided to the superintendent of the school district and parent and teacher organization of the district.

(d) Within five days of the county superintendent making the determination specified in subdivision (c), a school district may appeal that determination to the Superintendent. The Superintendent shall sustain or deny the appeal within 10 days. If the governing board of the school district appeals the determination, the county superintendent of schools may stay any action of the governing board that he or she



determines is inconsistent with the district's ability to meet its financial obligations for the current or subsequent fiscal year until resolution of the appeal by the Superintendent.

(e) If the appeal described in subdivision (d) is denied or not filed, or if the district has a negative certification pursuant to Section 42131, the county superintendent, in consultation with the Superintendent, shall take at least one of the actions described in paragraphs (1) to (5), inclusive, and all actions that are necessary to ensure that the district meets its financial obligations and shall make a report to the Superintendent about the financial condition of the district and remedial actions proposed by the county superintendent.

(1) Develop and impose, in consultation with the Superintendent and the school district governing board, a budget revision that will enable the district to meet its financial obligations in the current fiscal year.

(2) Stay or rescind any action that is determined to be inconsistent with the school district's ability to meet its obligations for the current or subsequent fiscal year. This includes any actions up to the point that the subsequent year's budget is approved by the county superintendent of schools. The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the governing board of the school district, a financial plan that will enable the district to meet its future obligations.

(4) Assist in developing, in consultation with the governing board of the school district, a budget for the subsequent fiscal year. If necessary, the county superintendent of schools shall continue to work with the governing board of the school district until the budget for the subsequent year is adopted.

(5) As necessary, appoint a fiscal adviser to perform any or all of the duties prescribed by this section on his or her behalf.

(f) Any action taken by the county superintendent of schools pursuant to paragraph (1) or (2) of subdivision (e) shall be accompanied by a notification that shall include the actions to be taken, the reasons for the actions, and the assumptions used to support the necessity for these actions.

(g) This section does not authorize the county superintendent to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools assumed authority pursuant to subdivision (e).

(h) The school district shall pay 75 percent and the county office of education shall pay 25 percent of the administrative expenses incurred pursuant to subdivision (e) or costs associated with improving the



district's financial management practices. The Superintendent shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of administrative expenses charged pursuant to this subdivision.

(i) Notwithstanding Section 42647 or 42650, or any other law, a county treasurer shall not honor any warrant if, pursuant to Sections 42127 to 42127.5, inclusive, or pursuant to this section, the county superintendent or the Superintendent, as appropriate, has disapproved that warrant or the order on school district funds for which a warrant was prepared.

(j) Effective upon the certification of the election results for a newly organized school district pursuant to Section 35763, the county superintendent of schools may exercise any of the powers and duties of this section regarding the reorganized school district and the other affected school districts until the reorganized school district becomes effective for all purposes in accordance with Article 4 (commencing with Section 35530) of Chapter 3 of Part 21.

(k) The Superintendent shall monitor the efforts of a county office of education in exercising its authority under this section and may exercise any of that authority if the Superintendent finds that the actions of the county superintendent of schools are not effective in resolving the financial problems of the school district. Upon a decision to exercise the powers of the county superintendent of schools, the county superintendent of schools is relieved of those powers assumed by the Superintendent. In addition to the actions taken by the county superintendent, the Superintendent shall take further actions to ensure the long-term fiscal stability of the district. The county office of education shall reimburse the Superintendent for all of his or her costs in exercising his or her authority under this subdivision. The Superintendent shall promptly notify the county superintendent of schools, the county board of education, the superintendent of the school district, the governing board of the school district, the appropriate policy and fiscal committees of each house of the Legislature, and the Department of Finance of his or her decision to exercise the authority of the county superintendent of schools.

SEC. 15. Section 42127.8 of the Education Code is amended to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, telecommunications, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and



operation, and personnel administration, organization, and staffing. The Superintendent may appoint one employee of the department to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent and the Secretary for Education.

(b) The unit established under subdivision (a) shall be selected and governed by a 23-member governing board consisting of one representative chosen by the California County Superintendents Educational Services Association from each of the 11 county service regions designated by the association, 11 superintendents of school districts chosen by the Association of California School Administrators from each of the 11 county service regions, and one representative from the State Department of Education chosen by the Superintendent of Public Instruction. The governing board of the County Office Fiscal Crisis and Management Assistance Team shall select a county superintendent of schools to chair the unit.

(c) The Superintendent may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, Section 33132, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, Section 42127.9, and subdivision (a) of Section 42238.2, and to review the fiscal and administrative condition of any county office of education, school district, or charter school.

(d) In addition to the functions described in subdivision (c), the unit shall do all of the following:

(1) Provide fiscal management assistance, at the request of any school district or county office of education. Each school district or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district and county office of education.

(2) Facilitate training for members of the governing board of the school district, district and county superintendents, chief financial officers within the district, and schoolsite personnel whose primary responsibility is to address fiscal issues. Training services shall emphasize efforts to improve fiscal accountability and expand the fiscal competency of local agencies. The unit shall use state professional associations, private organizations, and public agencies to provide guidance, support, and the delivery of any training services.

(3) Facilitate fiscal management training through the 10 county service regions to county office of education staff to ensure that they



develop the technical skills necessary to perform their fiduciary duty. The governing board established pursuant to subdivision (b) shall determine the extent of the training that is necessary to comply with this paragraph.

(4) Produce a training calendar, to be disseminated semiannually to each county service region, that publicizes all of the fiscal training services that are being offered at the local, regional, and state levels.

(e) The governing board shall reserve not less than 25 percent, nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to school districts or county superintendents of schools in which the board determines that a fiscal emergency exists.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents (\$0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the department, from any available funds, a reasonable amount to reimburse the department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts and county superintendents of schools.

(h) When employed as a fiscal adviser by the department pursuant to Section 1630, employees of the unit established pursuant to subdivision (a) shall be considered employees of the department for purposes of errors and omissions liability insurance.

(i) (1) The unit shall request and review applications to establish regional teams of education finance experts throughout the state.

(2) To the extent that funding is provided for purposes of this subdivision in the annual Budget Act or through another appropriation, regional teams selected by the Superintendent, in consultation with the unit, shall provide training and technical expertise to school districts and county offices of education facing fiscal difficulties.

(3) The regional teams shall follow the standards and guidelines of and remain under the general supervision of the governing board established under subdivision (b).

(4) It is the intent of the Legislature that, to the extent possible, the regional teams be distributed geographically throughout the various regions of the state in order to provide timely, cost-effective expertise to school districts and county offices of education throughout the state.

SEC. 16. Section 3540.2 of the Government Code is amended to read:



3540.2. (a) A school district that has a qualified or negative certification pursuant to Section 42131 of the Education Code shall allow the county office of education in which the school district is located at least 10 working days to review and comment on any proposed agreement made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The school district shall provide the county superintendent of schools with all information relevant to yield an understanding of the financial impact of that agreement.

(b) The Superintendent shall develop a format for use by the appropriate parties in generating the financial information required pursuant to subdivision (a).

(c) The county superintendent of schools shall notify the school district, the county board of education, the district superintendent, the governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement reviewed pursuant to subdivision (a) would endanger the fiscal well-being of the school district.

(d) A school district shall provide the county superintendent of schools, upon request, with all information relevant to provide an understanding of the financial impact of any final collective bargaining agreement reached pursuant to Section 3543.2.

(e) A county office of education, or a school district for which the county board of education serves as the governing board, that has a qualified or negative certification pursuant to Section 1240 of the Education Code shall allow the Superintendent at least 10 working days to review and comment on any proposed agreement or contract made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The county superintendent of schools shall provide the Superintendent with all information relevant to yield an understanding of the financial impact of that agreement or contract. The Superintendent shall notify the county superintendent of schools, and the county board of education within those 10 days if, in his or her opinion, the proposed agreement or contract would endanger the fiscal well-being of the county office.

SEC. 17. Section 3547.5 of the Government Code is amended to read:

3547.5. (a) Before a public school employer enters into a written agreement with an exclusive representative covering matters within the scope of representation, the major provisions of the agreement, including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years, shall be disclosed at a public meeting of the



public school employer in a format established for this purpose by the Superintendent of Public Instruction.

(b) The superintendent of the school district and chief business official shall certify in writing that the costs incurred by the school district under the agreement can be met by the district during the term of the agreement. This certification shall be prepared in a format similar to that of the reports required pursuant to Sections 42130 and 42131 of the Education Code and shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term.

(c) If a school district does not adopt all of the revisions to its budget needed in the current fiscal year to meet the costs of a collective bargaining agreement, the county superintendent of schools shall issue a qualified or negative certification for the district on the next interim report pursuant to Section 42131 of the Education Code.

SEC. 18. Section 53260 of the Government Code is amended to read:

53260. (a) All contracts of employment between an employee and a local agency employer shall include a provision which provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.

(b) (1) Notwithstanding subdivision (a), if a local agency employer, including an administrator appointed by the Superintendent, terminates its contract of employment with its district superintendent of schools that local agency employer may not provide a cash or noncash settlement to its superintendent in an amount greater than the superintendent's monthly salary multiplied by zero to six if the local agency employer believes, and subsequently confirms, pursuant to an independent audit, that the superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices. The amount of the cash settlement described in this paragraph shall be determined by a hearing officer after a hearing.

(2) This subdivision applies only to a contract for employment negotiated on or after the effective date of the act that added this subdivision.

(c) The cash settlement formula described in subdivisions (a) and (b) are maximum ceiling on the amounts that may be paid by a local agency employer to an employee and is not a target or example of the amount



of the cash settlement to be paid by a local agency employer to an employee in all contract termination cases.

SEC. 19. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the fiscal crisis currently facing this state, it is necessary that this act take effect immediately.

