

Assembly Bill No. 519

CHAPTER 757

An act to amend Sections 2558.46, 41203.1, 42238.146, 52052, 52055.57, 52059, 56836.155, 60604, 60605, 60605.6, 60606, 60616, 60630, 60640, 60641, 60642.5, 60643, 60645, 60647, 69521.3, 69521.4, 69521.5, 69521.10, 69521.11, 69522, 69561, and 76300 of, to add Sections 12143 and 52055.59 to, and to repeal Sections 60642 and 60644 of, the Education Code, relating to education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 519, Committee on Budget. Education finance.

(1) Existing law requires a revenue limit to be calculated for each county superintendent of schools, adjusted for various factors, and reduced, as specified.

This bill would reduce the revenue limit for each county superintendent of schools for the 2008–09 fiscal year by a deficit factor of 4.396%.

(2) Existing law requires the State Department of Education, in cooperation with the Department of Finance, to prepare a comprehensive state plan, to be submitted to the Legislature by January 1 of each year, detailing the prospective expenditure, allocation, and apportionment of federal funds to be appropriated for the next fiscal year to all educational agencies in the state. The department, in cooperation with the Department of Finance, also is required to submit a comprehensive report, to be submitted to the Legislature by January 1 of each year, that sets forth in detail the manner in which all federal funds were allocated and apportioned to, and expended by, educational agencies in this state in the prior fiscal year.

This bill would require the department to submit, to the Legislature, the Legislative Analyst's Office, and the Governor, 2 annual reports on federal funds for education in kindergarten and grades 1 to 12, inclusive. One report, to be submitted no later than February 15 of each year, would provide a 3-year tracking of federal funds for each federally funded program that includes detail by type of funded activity and state budget category and the actual expenditures for the prior year, a revised estimate of current-year expenditures, and the budget-year appropriation. The other report, to be submitted no later than November 1 of each year, would identify available federal carryover funds, identifying those funds, by fiscal year and potential reversion date, for each federally funded program by type of funded activity and state budget category.

(3) Existing law requires, for the 1990–91 fiscal year and each fiscal year thereafter, that moneys to be applied by the state for the support of school districts, community college districts, and direct elementary and secondary level instructional services provided by the state be distributed in accordance with certain calculations governing the proration of those moneys among the 3 segments of public education. Existing law makes that provision inapplicable to the fiscal years between the 1992–93 and 2007–08 fiscal years, inclusive.

This bill, in addition, would make that provision inapplicable to the 2008–09 fiscal year.

(4) Existing law requires the county superintendent of schools to determine a revenue limit for each school district in the county and requires the amount of the revenue limit to be adjusted for various factors.

This bill would reduce the revenue limit for each school district by a 4.713% deficit factor for the 2008–09 fiscal year.

(5) Existing law requires the State Department of Education to identify local educational agencies that are in danger of being identified within 2 years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and requires those local educational agencies identified to comply with certain requirements.

This bill, if funding is not provided in the annual Budget Act or other statute, would delete the requirement that program improvement local educational agencies comply with certain of those requirements.

Under existing law, a local educational agency that is identified for corrective action under the federal No Child Left Behind Act of 2001 is subject to one or more sanctions recommended by the Superintendent and approved by the State Board of Education, including a requirement to contract with a district assistance and intervention team to aid the local educational agency.

This bill would require the department to develop, and the state board to approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction would be evaluated for the purpose of determining the pervasiveness and severity of performance problems of the local educational agency and the sanction to be imposed. The bill would authorize a one-year, nonrenewable grant of federal improvement funding to assist in the improvement process of a local educational agency. The amount of the grant would vary depending on the pervasiveness and severity of performance problems of the local educational agency.

The bill would prohibit a local educational agency that receives funding under this program, or that receives other federal funds for school improvement, from using those funds to compensate a receiver or trustee assigned by the state board to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

The bill, subject to an appropriation in the annual Budget Act or another statute, would require the Superintendent to contract with an independent evaluator to complete a comprehensive 3-year evaluation of the program established for local educational agencies that are identified for corrective action. The evaluation would be required to examine the implementation, impact, costs, and effectiveness of the corrective actions and reform strategies and to determine the effectiveness of the technical assistance provided by the district intervention and assistance. The Superintendent would be required to submit 2 interim reports and a final report to the Governor, the Department of Finance, the Legislature, and the Legislative Analyst's Office.

(6) Existing law requires the department, for purposes of complying with the federal No Child Left Behind Act of 2001, to establish a statewide system of school support to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system consists of regional consortia, which may include county offices of education and school districts, that work collaboratively with school districts and county offices of education to meet the needs of school districts and schools in need of improvement.

This bill would add district assistance and intervention teams and other technical assistance providers to the system and would require the teams and other technical assistance providers to conduct a needs assessment and complete a report on their findings, including recommendations for improvement and the redirection of resources to ensure the implementation of the recommendations.

(7) Existing law adjusts funding for individuals with exceptional needs based on an incidence multiplier, as defined, for each special education local plan area.

This bill would continue the current special education incidence factor formula through the 2008–09 fiscal year.

(8) The Leroy Greene California Assessment of Academic Achievement Act requires the Superintendent to design and implement a statewide pupil assessment program, known as the Standardized Testing and Reporting (STAR) Program. The State Board of Education, in its sole discretion, is required to designate for use as part of the STAR Program a single test in grades 3 and 7 and to ensure that the achievement test contains specified subject areas for grades 3 and 7.

This bill would repeal this component of the STAR Program and make conforming changes.

(9) Existing law authorizes the Director of Finance to act as agent for the state in the sale of the student loan guarantee portfolio and certain related assets and liabilities of the student loan guarantee program not retained by the Student Aid Commission to an entity approved by the United States Secretary of Education to act as a state student loan guarantee agency for the Federal Family Education Loan Program, and selected by the Director of Finance, in consultation with the Treasurer, pursuant to a prescribed

procedure. Existing law requires the Director of Finance, in consultation with the Treasurer, to select a firm or individual to provide advisory services. Existing law requires the Director of Finance to send a Notice of Request for Qualifications to specified entities as part of the sale process. Existing law also requires the notice to be published in the State Contracts Register pursuant to specified statutory provisions. Existing law requires the Director of Finance to cease the activities he or she is authorized to undertake with regard to the sale upon the 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee or January 10, 2009, whichever occurs earlier.

This bill would require the Director of Finance to provide a copy of the Notice of Request for Qualifications to the Joint Legislative Budget Committee within 7 days of transmittal to state student loan guarantee agencies and within 7 days of publication in the State Contracts Register. The bill would require the Director of Finance to notify the Joint Legislative Budget Committee in writing within 7 days of entering into a contract with an individual or firm for advisory services. The bill would extend the alternate date upon which the Director of Finance is required to cease the activities he or she is authorized to undertake with regard to the sale from January 10, 2009, to January 10, 2011.

(10) Existing law authorizes the Student Aid Commission to establish an auxiliary organization to provide operational and administrative services for the commission's participation in the Federal Family Education Loan Program or for other activities approved by the commission and determined by the commission to meet specified criteria. Existing law prohibits the commission from including loan origination or loan capitalization activities as approved activities, but states that the prohibition does not preclude the commission or the auxiliary organization from undertaking other permitted activities related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.

This bill, in addition, would state that the prohibition on including loan origination or loan capitalization activities as approved activities does not preclude the commission or the auxiliary organization from undertaking loan origination or capitalization activities authorized pursuant to an agreement with the United States Secretary of Education for the lender-of-last-resort program.

(11) Existing law requires the Student Aid Commission to administer the Student Opportunity and Access Program, under which the commission is authorized to apportion funds for the support of projects designed to increase the accessibility of postsecondary educational opportunities for certain elementary and secondary school pupils, including those from low-income families, those who would be the first in their families to attend college, and those who are from schools or geographic regions with documented low-eligibility or college participation rates. Projects are required to primarily increase the availability of information for these pupils on the existence of postsecondary schooling and work opportunities and to raise the achievement levels of these pupils.

This bill would authorize projects to be implemented under the program that provide assistance to low-income middle and high school pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school by promoting career technical education public awareness. These projects would be required to promote the value of career technical education, available career programs in public school and postsecondary segments with sequenced courses beginning in high school and continuing into postsecondary institutions, and the resulting career opportunities.

(12) Existing law requires the governing board of each community college district to charge each student a fee per unit per semester and requires this fee to be waived for specified students who demonstrate eligibility for the fee waiver. The Board of Governors of the California Community Colleges is required to allocate to community college districts 2% of the fees waived. The board of governors also is required to allocate to community college districts \$0.91 per credit unit waived for determination of financial need and delivery of student financial aid services. These allocations are required to be made from funds provided in the annual Budget Act.

This bill would state the intent of the Legislature that the funds described above be used to support the determination of financial need and delivery of student financial aid services and that the funds directly offset any mandated costs claimed by community college districts pursuant to specified Commission on State Mandates test claims.

(13) This bill would appropriate \$12,500,000 from the Public Interest Research, Development, and Demonstration Fund to the Chancellor of the California Community Colleges. Of that appropriated amount, the bill would require the Chancellor of the California Community Colleges to transfer \$12,000,000 to the State Department of Education for expenditure in one-time funds for local grants to be allocated pursuant to specified statutory provisions regarding partnership academies over 3 years as specified in the Budget Act of 2008. The bill would require grantees to create partnership academies that focus on clean technology and energy businesses and provide skilled workforces for the products and services for energy or water conservation, or both, renewable energy, pollution reduction, or other technologies that improve the environment in furtherance of state environmental laws. The bill would require the Chancellor of the California Community Colleges to transfer the remaining \$500,000 to the State Department of Education to pay for the expenses of administering the local grants.

(14) This bill would appropriate \$39,780,000 from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of an amount appropriated pursuant to a specified item in Budget Act of 2008, for the purpose of providing a 0.68% cost-of-living adjustment to apportionments to community college districts, for expenditure during the 2008–09 fiscal year. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for community college districts required by the California Constitution, those funds are General

Fund revenues appropriated for community college districts for the 2008–09 fiscal year.

(15) This bill would appropriate \$388,283,000 from the General Fund to the State Department of Education for 10 specified programs according to a specified schedule, and would require the department to encumber these funds by July 1, 2009. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for school districts required by the California Constitution, the appropriated funds are General Fund revenues appropriated for school districts and community college districts for the 2009–10 fiscal year.

(16) This bill would appropriate \$200,000,000 from the General Fund to the Board of Governors of the California Community Colleges for expenditure during the 2009–10 fiscal year according to a specified item in the Budget Act of 2008. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for community college districts required by the California Constitution, those funds are General Fund revenues appropriated for community college districts for the 2009–10 fiscal year.

(17) Existing law annually appropriates \$150,000,000 from the General Fund to the Controller for allocation by the Controller to school districts and community colleges for the purpose of discharging in full the outstanding balance of the minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution as determined by specified state officials.

This bill would provide that there shall be no annual appropriation in the 2008–09 fiscal year for this purpose.

(18) This bill would set the cost-of-living adjustment for specified items in the Budget Act of 2007 and for specified items in the Budget Act of 2008 for the 2008–09 fiscal year at 0% notwithstanding the cost-of-living adjustment specified in existing statutes.

(19) This bill would require funds appropriated pursuant to specified items in the Budget Act of 2008 to be encumbered by July 31, 2009.

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

Appropriation: yes.

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

SECTION 1. Section 2558.46 of the Education Code is amended to read:

2558.46. (a) (1) For the 2003–04 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 1.195 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 0.898 percent deficit factor.

(5) For the 2008–09 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 4.396 percent deficit factor.

(b) In computing the revenue limit for each county superintendent of schools for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each county superintendent of schools for the 2009–10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2008–09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 2. Section 12143 is added to the Education Code, to read:

12143. The department shall submit to the Legislature, the Legislative Analyst’s Office, and the Governor the following two annual reports on federal funds for education in kindergarten and grades 1 to 12, inclusive:

(a) One report, to be submitted no later than February 15 of each year, shall provide a three-year tracking of federal funds. For each federally funded program, the report shall include detail by type of funded activity (state administration, state-level activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay). For each program, by type of funded activity and state budget category, the report shall include all of the following:

- (1) Actual expenditures for the prior year.
- (2) A revised estimate of current year expenditures.
- (3) The budget-year appropriation.

(b) The other report, to be submitted no later than November 1 of each year, shall identify available federal carryover funds. Specifically, this report shall identify carryover funds, by fiscal year and potential reversion date, for each federally funded program by type of funded activity (state administration, state-level activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay).

SEC. 3. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990–91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded

as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989–90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), the amount calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other law, this section does not apply to the 1992–93 to 2008–09 fiscal years, inclusive.

SEC. 4. Section 42238.146 of the Education Code is amended to read:

42238.146. (a) (1) For the 2003–04 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 1.198 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each school district determined pursuant to this article shall be further reduced by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.892 percent deficit factor.

(5) For the 2008–09 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 4.713 percent deficit factor.

(b) In computing the revenue limit for each school district for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each school district for the 2009–10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2008–09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 5. 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, especially the academic performance of pupils.

(2) A school shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school, including:

- (A) Ethnic subgroups.
- (B) Socioeconomically disadvantaged pupils.
- (C) English language learners.
- (D) Pupils with disabilities.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that meets both of the following criteria:

(i) The subgroup consists of at least 50 pupils each of whom has a valid test score.

(ii) The subgroup constitutes at least 15 percent of the total population of pupils at a school who have valid test scores.

(B) If a subgroup does not constitute 15 percent of the total population of pupils at a school who have valid test scores, the subgroup may constitute a numerically significant pupil subgroup if it has at least 100 valid test scores.

(C) For a school with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant subgroups shall be defined by the Superintendent, with approval by the state board.

(4) 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.

(A) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) 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, divided 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 prior to 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 prior to 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 prior to 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.

(B) 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

language 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. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(C) Before including high school graduation rates and attendance rates in the API, the Superintendent shall determine the extent to which the data currently are reported to the state and the accuracy of the data. Notwithstanding any other provision of 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.

(D) The Superintendent shall provide an annual report to the Legislature on the graduation and dropout rates in California and shall make the same report available to the public. The report shall be accompanied by the release of publicly accessible data for each school district and school in a manner that provides for disaggregation based upon socioeconomically disadvantaged pupils and numerically significant subgroups scoring below average on statewide standards-aligned assessments. In addition, the data shall be made available in a manner that provides for comparisons of a minimum of three years of data.

(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. When the API is fully developed, schools, at a minimum, shall meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The state board may establish additional criteria that schools must meet to be eligible for the Governor's Performance Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school 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 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:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the API score of the school are not representative of the pupil population at the school.

(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 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.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) 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.

SEC. 6. Section 52055.57 of the Education Code is amended to read:

52055.57. (a) (1) Provisions that are applicable to local educational agencies under this section are for the purpose of implementing federal requirements under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.). The satisfaction of these criteria by local educational agencies that choose to participate under this article shall be a condition of receiving funds pursuant to this section.

(2) The department shall identify local educational agencies that are in danger of being identified within two years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001, and shall notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment.

(3) The self-assessment shall identify deficiencies within the operations of the local educational agency, and the programs and services of the local educational agency.

(4) A local educational agency identified pursuant to paragraph (2) is encouraged to revise its local educational agency plan based on the results of the self-assessment.

(5) The program described in this subdivision shall be referred to as the “Early Warning Program.”

(b) (1) A local educational agency identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 shall do all of the following:

(A) Conduct a self-assessment using materials and criteria based on current research and provided by the department.

(B) No later than 90 days after a local educational agency is identified for program improvement, contract with a county office of education or another external entity after working with the county superintendent of schools, for both of the following purposes:

(i) Verifying the fundamental teaching and learning needs in the schools of that local educational agency as determined by the local educational agency self-analysis, and identifying the specific academic problems of low-achieving pupils, including a determination of why the prior plan of the local educational agency failed to bring about increased pupil academic achievement.

(ii) Ensuring that the local educational agency receives intensive support and expertise to implement local educational agency reform initiatives in the revised local educational agency plan as required by the federal No Child Left Behind Act of 2001.

(C) Revise and expeditiously implement the local educational agency plan to reflect the findings of the verified self-assessment.

(D) After working with the county superintendent of schools or an external verifier, contract with an external provider to provide support and implement recommendations to assist the local educational agency in resolving shortcomings identified in the verified self-assessment.

(2) (A) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency described in paragraph (1) annually may receive fifty thousand dollars (\$50,000), plus ten thousand dollars (\$10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 within the local educational agency, for the purpose of fulfilling the requirements of this subdivision. If funding is not provided in the annual Budget Act or other statute, local educational agencies shall not be subject to the requirements of subparagraphs (B) and (D) of paragraph (1).

(B) Subject to the availability of funds appropriated in the annual Budget Act for this purpose, a local educational agency identified as a program improvement local educational agency during the 2005–06 fiscal year, shall receive priority for funding based upon the performance of the socioeconomically disadvantaged subgroup of the local educational agency on the Academic Performance Index. Priority for funding shall be provided to the lowest performing local educational agencies that are identified as program improvement local educational agencies. It is the intent of the Legislature that funds apportioned pursuant to this paragraph be used to support activities identified in paragraph (1).

(C) It is the intent of the Legislature that a local educational agency identified as a program improvement local educational agency receive no more than two years of funding pursuant to this paragraph.

(c) A local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 shall be subject to one or more of the following sanctions as recommended by the Superintendent and approved by the state board:

(1) Replacing local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(2) Removing schools from the jurisdiction of the local educational agency and establishing alternative arrangements for the governance and supervision of those schools.

(3) Appointing, by the state board, a receiver or trustee, to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

(4) Abolishing or restructuring the local educational agency.

(5) Authorizing pupils to transfer from a school operated by the local educational agency to a higher performing school operated by another local educational agency, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described under this paragraph.

(6) Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for high-priority pupils.

(7) Deferring programmatic funds or reducing administrative funds.

(d) (1) The department shall develop, and the state board shall approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) shall be evaluated to determine the pervasiveness and severity of its performance problems and the sanction to be imposed.

(2) A local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) may apply for a one-year, nonrenewable grant of federal improvement funding to assist in its improvement process and may expend that grant funding over the time period allowable under federal law. It is the intent of the Legislature to integrate federal funding that is available for this purpose, including, but not limited to, funding for program improvement and school improvement grants pursuant to Section 6303 of Title 20 of the United States Code.

(3) The amount of a grant for a local educational agency with extensive and severe performance problems shall be one hundred fifty thousand dollars (\$150,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with moderate performance problems shall be one hundred thousand dollars (\$100,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with minor or isolated performance problems shall be fifty thousand dollars (\$50,000) per school identified for program improvement pursuant to federal law.

(4) A local educational agency that receives funding under this subdivision shall use the funds in accordance with Section 6316(b) and (c) of Title 20 of the United States Code. Pursuant to the technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6312(b) and (c) and Section 6317 of Title 20 of the United States Code, the Superintendent may recommend, and the state board may approve, that a local educational agency contract with a district assistance and intervention team or other technical assistance provider to receive guidance, support, and technical assistance. A district intervention and assistance team or other technical provider with which a local educational agency is required to contract shall perform the duties specified in subdivision (e) of Section 52059.

(5) Notwithstanding any other law, a local educational agency that receives funding under this subdivision or that receives other federal funds for school improvement shall not use those funds to compensate a receiver or trustee assigned by the state board pursuant to paragraph (3) of subdivision (c).

(e) A local educational agency that has received a sanction under subdivision (c) and has not exited program improvement under the federal No Child Left Behind Act of 2001 shall appear before the state board within three years to review the progress of the local educational agency. Upon hearing testimony and reviewing written data from the local educational agency, the district assistance and intervention team, or county superintendent of schools, the Superintendent shall recommend, and the

state board may approve, an alternative sanction under subdivision (c), or may take any appropriate action.

(f) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency that is not identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 may annually receive up to fifteen thousand dollars (\$15,000) per school identified as a program improvement school for the purposes of supporting schools identified as program improvement schools in the local educational agency and determining barriers to improved pupil academic achievement. That local educational agency shall receive no less than forty thousand dollars (\$40,000) and no more than one million five hundred thousand dollars (\$1,500,000) for those purposes. The Superintendent shall compile a list that ranks each local educational agency based on the number of, and percentage of, schools identified as program improvement schools and shall provide this funding to local educational agencies equally from each list until all funds appropriated for this purpose are depleted. These funds shall be provided for no more than three years.

(g) For purposes of this article, “local educational agency” means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

SEC. 7. Section 52055.59 is added to the Education Code, to read:

52055.59. (a) Subject to an appropriation in the annual Budget Act or other statute, the Superintendent shall contract with an independent evaluator to complete a comprehensive three-year evaluation of the program established pursuant to subdivision (d) of Section 52055.57. It is the intent of the Legislature that a total of one million dollars (\$1,000,000) be provided for the independent evaluation, with three hundred thirty-four thousand dollars (\$334,000) provided for the 2008–09 fiscal year, three hundred thirty-three thousand dollars (\$333,000) provided for the 2009–10 fiscal year, and three hundred thirty-three thousand dollars (\$333,000) provided for the 2010–11 fiscal year. The evaluation shall focus on local educational agencies that are identified for corrective action beginning with the 2007–08 fiscal year, and in the 2008–09, 2009–10, and 2010–11 fiscal years, and shall include data compiled for those local educational agencies for those years.

(b) The evaluation shall examine the implementation, impact, costs, and effectiveness of the corrective actions and reform strategies undertaken by local educational agencies that are identified for corrective action, as specified in subdivision (a). The evaluation also shall determine the effectiveness of the technical assistance provided by the district assistance and intervention teams and other technical assistance providers pursuant to Section 52059.

(c) The Superintendent shall ensure that the evaluation includes, at a minimum, all of the following factors:

(1) Program implementation data, including, but not limited to, a review of startup activities, the quality of the academic program, local governance and leadership, the allocation of fiscal resources, the allocation of personnel, management practices, community support, parental participation, the use of pupil data to inform instructional practice, and staff development.

(2) Pupil performance data, including, but not limited to, results of assessments used to determine whether local educational agencies have made significant progress towards meeting their state and federal academic growth targets and data for each of the following subgroups:

(A) English learners.

(B) Pupils with exceptional needs.

(C) Pupils who are eligible for funds under Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(3) Data on the percentage of fully credentialed teachers, the percentage of teachers who hold emergency credentials, the percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in multitrack, year-round schools. These data shall be compiled for the 2008–09, 2009–10, and 2010–11 school years.

(d) The evaluation shall include a rigorous qualitative and quantitative assessment of how program implementation affected pupil achievement and teacher quality using the information required pursuant to subdivision (c).

(e) The Superintendent shall submit two interim reports and a final report to the Governor, the Department of Finance, the Legislature, and the Legislative Analyst's Office. The reports shall be submitted to these agencies no later than November 1, 2009, November 1, 2010, and November 1, 2011, respectively.

SEC. 8. Section 52059 of the Education Code is amended to read:

52059. (a) For purposes of complying with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), a statewide system of school support shall be established by the department to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system shall consist of regional consortia as well as district assistance and intervention teams and other technical assistance providers.

(b) The regional consortia shall work collaboratively with, and provide technical assistance to, school districts and schools in need of improvement by doing the following:

(1) Reviewing and analyzing all facets of the operation of a local educational agency or school, including the following:

(A) The design and operation of the instructional program offered by the local educational agency or school.

(B) The recruitment, hiring, and retention of principals, teachers, and other staff, including vacancy issues. The regional consortia may request the assistance of the Fiscal Crisis and Management Assistance Team to review school district or school recruitment, hiring, and retention practices.

(C) The roles and responsibilities of district and school management personnel.

(2) Assisting the local educational agency or school in developing recommendations for improving pupil performance and school operations.

(3) Assisting the local educational agency or school in efforts to eliminate misassignments of certificated personnel.

(c) For purposes of performing the functions specified in subdivision (b), funds for the regional consortia shall be distributed based on the number of Title I schools, the pupil enrollment in those schools, and the number of school districts in each region that have been identified as being in need of improvement pursuant to Section 6316 of Title 20 of the United States Code.

(d) The regional consortia shall ensure that support is provided in the following order of priority:

(1) To school districts or county offices of education with schools that are subject to corrective action under Section 6316(b)(7) of Title 20 of the United States Code.

(2) To school districts or county offices of education with schools that are identified as being in need of improvement pursuant to Section 6316(b) of Title 20 of the United States Code.

(3) To provide support and assistance to school districts and county offices of education with schools participating under the federal No Child Left Behind Act of 2001 that need support and assistance to achieve the purposes of that act.

(4) To provide support and assistance to other school districts and county offices of education with schools participating in a program carried out under this chapter.

(e) In accordance with paragraph (4) of subdivision (d) of Section 52055.57, the Superintendent may recommend, and the state board may approve, that a local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 contract with a district assistance and intervention team or other technical assistance provider to receive technical assistance, including, but not limited to, a needs assessment of the local educational agency.

(1) The Superintendent shall develop, and the state board shall approve, standards and criteria to be applied by a district assistance and intervention team or other technical assistance provider in carrying out its duties. The standards and criteria that a district assistance and intervention team or other technical assistance provider shall use in assessing a local educational agency shall address, at a minimum, all of the following areas:

(A) Governance.

(B) Alignment of curriculum, instruction, and assessments to state standards.

(C) Fiscal operations.

(D) Parent and community involvement.

(E) Human resources.

(F) Data systems and achievement monitoring.

(G) Professional development.

(2) Not later than 120 days after the assignment of a district assistance and intervention team or other technical assistance provider, or the next regularly scheduled meeting of the state board following the expiration of the 120 days, the team shall complete a report based on the findings from the needs assessment performed pursuant to paragraph (1). The report shall include, at a minimum, recommendations for improving the areas specified in paragraph (1) that are found to need improvement. The report also shall address the manner in which existing resources should be redirected to ensure that the recommendations can be implemented.

(3) Not later than 30 days after completion of the report specified in paragraph (2), the governing board of the local educational agency may submit an appeal to the Superintendent to be exempted from implementing one or more of the recommendations made in the report. The Superintendent, with approval of the state board, may exempt the local educational agency from complying with one or more of the recommendations made in the report.

(4) Not later than 60 days after completion of the report, the governing board of the local educational agency shall adopt the report recommendations described in paragraph (2), as modified by any exemptions granted by the Superintendent under paragraph (3), at a regularly scheduled meeting of the governing board.

(f) A local educational agency that is required to contract with a district assistance and intervention team or other technical assistance provider pursuant to this section shall reserve funding provided under subdivision (d) of Section 52055.57 to cover the entire cost of the team or other technical assistance provider before using that funding for other reform activities.

(g) Upon an evidence-based finding that a district assistance and intervention team or other technical assistance provider has not fulfilled its legal obligations pursuant to this section, the Superintendent, with the approval of the state board, may remove the district assistance and intervention team or other technical assistance provider from the state list of eligible providers.

(h) The provisions of this section are declarative of technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6316(b) and (c) and Section 6317(a) of Title 20 of the United States Code.

(i) For purposes of this article, all references to schools shall include charter schools.

SEC. 9. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Legislative Analyst's Office, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Legislative Analyst's Office for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998–99 fiscal year and each fiscal year thereafter to and including the 2008–09 fiscal year, the Superintendent shall perform the following calculation to determine the adjusted entitlement of each special education local plan area for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, and 2008–09 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997–98 fiscal year, the Superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997–98 fiscal year.

SEC. 10. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the state board that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the state board.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the state board.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the state board, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The Superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These

guidelines shall be developed in consultation with classroom teachers and approved by the state board before dissemination.

(d) The Superintendent and the state board shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the state board.

(f) This section shall become inoperative on July 1, 2011.

SEC. 11. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the state board shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California educational system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the Superintendent and the state board not later than a specified date that allows sufficient opportunity for the Superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents

and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(c) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, periodically shall contract for a review of the achievement test for conformance with these standards.

(d) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(e) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(f) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(g) This section shall become inoperative on July 1, 2011.

SEC. 12. Section 60605.6 of the Education Code is amended to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent, upon approval of the state board, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in grade 10. This workbook shall contain information on the proficiency levels that must be demonstrated by pupils on the high school exit examination described in Chapter 9 (commencing with Section 60850). The workbook also shall contain sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the state board pursuant to Section 60605.

(b) Separate workbooks for each of grades 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642.5 shall receive a copy of the workbook designed for the same grade level in which the pupil is enrolled. These workbooks shall contain material to assist pupils and their parents with standards-based learning, including the grade appropriate academic content standards adopted by the state board pursuant to Section 60605 and sample questions that

require knowledge of these standards to answer. The workbooks also shall describe how the sample questions test knowledge of the state board adopted academic content standards.

(c) This section shall become inoperative on July 1, 2011.

SEC. 13. Section 60606 of the Education Code is amended to read:

60606. (a) After adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the state board shall submit the instrument, once designated or adopted, for review by the Statewide Pupil Assessment Review Panel, which is hereby established.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the instrument specified in subdivision (a) in order to ensure that the content of the instrument complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of the instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become inoperative on July 1, 2011.

SEC. 14. Section 60616 of the Education Code is amended to read:

60616. Any achievement test adopted by the state board pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to maintain the confidentiality of the test.

SEC. 15. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent shall prepare and submit an annual report to the Legislature and the state board containing an analysis of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (b) of Section 60605. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

- (1) Financial characteristics, including specially funded programs.
- (2) Pupil and parent characteristics.
- (3) Staff characteristics.
- (4) Instructional methodologies and materials.

(b) School districts shall submit to the department whatever information the department deems necessary to carry out this section.

SEC. 16. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) From the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to Section 1412(a)(17) of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) (1) At the option of the school district, pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Section 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Section 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(F) On or before January 1, 2006, the department shall submit to the Legislature a report on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (e), (f), and (g).

(2) The state board annually shall establish the amount of funding to be apportioned to school districts for each test administered and annually shall establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (e), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test shall not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall

notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable 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, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The Superintendent, with the approval of the state board, annually shall release to the public test items from the standards-based achievement tests pursuant to Section 60642.5 administered in previous years. The minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

(m) This section shall become inoperative on July, 1, 2011.

SEC. 17. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The standards-based achievement test provided for in Section 60642.5 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the parent or guardian of the pupil. The written report shall include a clear explanation of the purpose of the test, the score of the pupil, and the intended use by the school district of the test score. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of the test score of each pupil.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 also shall be reported to the school and teachers of a pupil. The school district shall include the test results of a pupil in his or her pupil records. However, except as provided in this section, individual pupil test results only may be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The department shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 18. Section 60642 of the Education Code is repealed.

SEC. 19. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent, with approval of the state board, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the state board. These standards-based achievement tests shall contain the subject areas specified in paragraph (3) of subdivision (a) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in

at least one elementary or middle school grade level selected by the state board and science in at least one elementary or middle school grade level selected by the state board, and the core curriculum areas specified in paragraph (5) of subdivision (a) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the state board adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the state board shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the state board. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The procedures of the contractor to ensure the security and integrity of test questions and materials.

(6) The experience of the contractor in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests.

SEC. 20. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642.5 by the state board, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

(1) Enter into an agreement, pursuant to subdivision (e) or (f), with the department by October 15 of that year.

(2) Align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores to school districts and county boards of education in all of the following forms and formats:

- (A) Grade level.
- (B) School level.
- (C) District level.
- (D) Countywide.
- (E) Statewide.
- (F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with “nonlimited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and ethnicity and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section shall not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the department and the state board in the medium requested by each entity, respectively.

(b) It is the intent of the Legislature that the publisher work with the Superintendent and the state board in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for “economically disadvantaged” status pursuant to paragraph (7) of subdivision (a).

(c) Access to information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. This chapter does not abridge or deny rights to confidentiality contained in the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other law, the publisher of the standards-based achievement test provided for in Section 60642.5 or any contractor under subdivision (f) shall comply with all of the conditions and requirements

enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher shall not provide a test described in Section 60642.5 or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

(2) The department shall develop, and the state board shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contracts authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the state board.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent to meet the requirements of state and federal law and set forth in the agreement.

(9) The contracts shall specify the specific reports and data files, if any, that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(10) The contracts shall specify the means by which any delivery date for materials to each school district shall be verified by the publisher and the school district.

(11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

(f) The department, with approval of the state board, may enter into a separate contract for the development or administration of a test authorized pursuant to this part, including, but not limited to, item development, coordination of tests, assemblage of tests or test items, scoring, or reporting. The liquidated damages provision set forth in paragraph (5) of subdivision (e) shall apply to a contract entered into pursuant to this subdivision.

(g) This section shall become inoperative on July, 1, 2011.

SEC. 21. Section 60644 of the Education Code is repealed.

SEC. 22. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the standards-based achievement test provided for in Section 60642.5 and items identified in subdivision (d) for compliance with Section 60614.

(b) Test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The state board shall ensure that any question or content not in compliance with Section 60614 is deleted from the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the state board pursuant to subdivision (c).

SEC. 23. Section 60647 of the Education Code is amended to read:

60647. An action to challenge a provision of this article or a determination made by the state board under this article, shall be filed and adjudicated pursuant to Sections 860 to 870, inclusive, of the Code of Civil Procedure. No exercise of discretion by the state board in its administration of this article or exercise of its discretion pursuant to Section 60605 shall be overturned absent a finding that the state board acted in an arbitrary and capricious manner.

SEC. 24. Section 69521.3 of the Education Code is amended to read:

69521.3. (a) The Director of Finance is hereby authorized to act as agent for the state and, in that capacity, to sell the state student loan guarantee program assets and liabilities not retained by the Student Aid Commission to an entity that the director, in consultation with the Treasurer, determines will provide the best combination of each of the following:

(1) The highest price for those state student loan guarantee program assets and liabilities.

(2) The greatest security for the payment of the purchase price.

(3) Demonstrated competence and professional qualifications necessary for the continued satisfactory performance of student loan guarantee services.

(4) The approval of the Secretary of Education.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, the sale process shall include the steps the director, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of criteria established by the director, in consultation with the Treasurer, consistent with achieving a combination of the best price for those state student loan guarantee program assets and liabilities and the continued operation of student loan guarantee services for California under the Federal Family Education Loan Program. These criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the Director of Finance to each firm currently acting as a state student loan guarantee agency under the Federal Family Education Loan Program and any entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. This notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities offered for sale, and a description of the due diligence review process to provide potential purchasers with further information regarding the state student loan guarantee program assets and liabilities offered for sale, the selection criteria on which the transaction will be based, the submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications sent pursuant to paragraph (2), using the criteria contained in the notice, and, based on those statements, the establishment of a qualified purchasers list.

SEC. 25. Section 69521.4 of the Education Code is amended to read:

69521.4. (a) If, after seeking the advice of, and in active participation with, the Treasurer, the Director of Finance determines that an alternative arrangement to the sale of the state student loan guarantee program assets and liabilities may be financially beneficial to the state, the Director of

Finance is also hereby authorized to enter into an arrangement other than that authorized in Section 69521.3, for the purpose of maximizing the value of the state student loan guarantee program assets and liabilities. This arrangement may take any form the director, in consultation with the Treasurer, deems advisable to provide the best combination of each of the following:

- (1) The greatest value to the General Fund.
- (2) The greatest financial security for achieving value to the General Fund.
- (3) The continued satisfactory performance of student loan guarantee services.

(4) The approval of the United States Secretary of Education, to the extent required by Public Law 94-482, or subsequent federal regulations.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, this process shall include the steps the Director of Finance, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of the established criteria consistent with achieving a combination of the greatest value to the General Fund and the continued operation of student loan guarantee services for California under the Federal Family Education Loan Program. The criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the director to each nonprofit entity currently acting as a state student loan guaranty agency under the Federal Family Education Loan Program, any entity known to the director to be acting as a servicing agent for a state student loan guaranty agency, and any nonprofit entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities, and a description of the due diligence review process to provide further information regarding the state student loan guarantee program assets and liabilities, the selection criteria on which the transaction will be based, submission requirements and date, and a Department of Finance contact name and phone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications, using the criteria contained in the notice, and, based on the statements, the establishment of a qualified purchasers list.

SEC. 26. Section 69521.5 of the Education Code is amended to read:

69521.5. (a) The Director of Finance is authorized to take all actions that he or she deems to be necessary or convenient to accomplish any of the following:

(1) To preserve the state student loan guarantee program assets, pending consummation of their sale or the consummation of any other transaction, to maximize the value of the state student loan guarantee program to the state, including, without limitation, as authorized in Sections 69522, 69526, and 69766.

(2) To engage in negotiations with, and provide sufficient information regarding the state student loan guarantee assets and liabilities to, potential purchasers or any potential transferee guaranty program operator.

(3) To either consummate the sale of, and transfer, the state student loan guarantee program assets and liabilities not retained to the Student Aid Commission to the transferee guarantee agency, or to consummate the agreement with the transferee guaranty program operator.

(4) To seek and negotiate with the United States Secretary of Education the designation of any alternative state student loan guarantee agency for California under the Federal Family Education Loan Program or the approval of the Secretary of Education of any transferee guaranty program operator to the extent required by Public Law 94-82, or subsequent federal regulations.

(5) To transfer the Federal Student Loan Reserve Fund to any transferee guaranty agency in a manner that is consistent with the intentions of the United States Secretary of Education.

(6) To transfer any of the state student loan guarantee program assets in the form of cash or investments not transferred to any transferee guaranty agency or transferee guarantee program operator directly to the General Fund.

(7) To retain any state student loan guarantee program assets determined by the director to be necessary or appropriate for the purposes of the Student Aid Commission.

(b) In order to accomplish the purposes of this article, the Director of Finance shall do all of the following:

(1) Notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly Budget Committees of the determination of the Director of Finance to proceed with a transaction other than the sale of the state student loan guarantee program assets and liabilities pursuant to Section 69521.3, providing that notice no later than 30 days prior to the consummation of the transaction with the transferee guarantee program operator.

(2) Upon the consummation of the sale of the state student loan guarantee program assets to a transferee guaranty agency, the Director of Finance shall notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(3) Upon the consummation of a transaction authorized by this article with a transferee guarantee program operator, the Director of Finance shall

notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(c) In order to accomplish the purposes of this article:

(1) The Student Aid Commission shall cooperate fully with the Director of Finance and, in particular, take all steps to preserve the state student loan guarantee program assets deemed necessary or convenient by the Director of Finance, including, without limitation, as set forth in Sections 69522, 69526, and 69766.

(2) The Student Aid Commission shall direct the auxiliary organization to cooperate fully with the director.

(3) Until the consummation of the sale or other transaction to maximize the value of the state student loan guarantee program to the state, all of the actions, approvals, and directions of the Student Aid Commission affecting the state student loan guarantee program shall be effective only upon the approval of the Director of Finance.

(4) Notwithstanding any provision of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), the auxiliary organization shall, as directed by the Student Aid Commission under paragraph (2), cooperate fully with the Director of Finance.

SEC. 27. Section 69521.10 of the Education Code is amended to read:

69521.10. (a) The Director of Finance, in consultation with the Treasurer, shall select a firm or individual to provide advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, in the manner described in this section.

(b) The Director of Finance and the Treasurer shall establish selection criteria for selecting an advisor. The criteria may include, but are not necessarily limited to, factors such as professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the director and the Treasurer to be relevant and necessary to the performance of advisory services.

(c) The Director of Finance, for the purposes of obtaining services under this section, shall send a Notice of Request for Qualifications to firms and individuals in the underwriter and financial advisor pools of the Treasurer. The director shall publish this notice in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the advisory services required, the selection criteria based on which the contract award will be made, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of publication in the State Contracts Register.

(d) (1) After the final response date stated in the Notice of Request for Qualifications, the Director of Finance and the Treasurer shall review the responses submitted, and shall evaluate them using the criteria contained in the notice. The director and the Treasurer shall rank, in order of preference based on the criteria contained in the notice, the firm or individuals determined to be qualified to perform the required services.

(2) The Director of Finance and the Treasurer, or their designees, may interview any of the qualified firms or individuals regarding the experience and qualifications of those firms or individuals, as well as anticipated concepts and the benefits of alternative methods of furnishing the required services.

(e) (1) Following the interviews, if any, held pursuant to subdivision (d), the Director of Finance and the Treasurer shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(2) The Director of Finance, in consultation with the Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (1). If negotiations are concluded successfully, the director shall enter into a contract. If the director, in his or her sole discretion, concludes that the negotiations are unsuccessful, the director shall terminate the negotiations, and begin new negotiations, in consultation with the Treasurer, with the other firms or individuals ranked pursuant to paragraph (1) in order of their ranking, and either contract with or terminate negotiations with each next most highly ranked firm or individual.

(3) If, after pursuing the negotiation process set forth in paragraph (2), the Director of Finance has been unable to negotiate a satisfactory contract at fair and reasonable compensation, the director may reinstitute the selection process prescribed in this section, commencing with the issuance of a new Notice of Request for Qualifications.

(4) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of entering into a contract with an individual or firm pursuant to paragraph (2).

SEC. 28. Section 69521.11 of the Education Code is amended to read:

69521.11. (a) The Director of Finance shall notify the Joint Legislative Budget Committee in writing upon his or her determination that neither the sale nor any other transaction authorized by this article is anticipated to achieve the purposes of this article.

(b) The Director of Finance shall cease those activities he or she is authorized or directed to undertake pursuant to this article and Sections 69522, 69526, and 69766 upon the earlier of:

(1) The 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee pursuant to subdivision (a).

(2) January 10, 2011.

SEC. 29. Section 69522 of the Education Code is amended to read:

69522. (a) (1) The commission may establish an auxiliary organization for the purpose of providing operational and administrative services for the

participation by the commission in the Federal Family Education Loan Program, or for other activities approved by the commission and determined by the commission to be all of the following:

- (A) Related to student financial aid.
- (B) Consistent with the general mission of the commission.
- (C) Consistent with the purposes of the federal Higher Education Act of 1965 (Public Law 89-329) and amendments to that act.

(2) The activities approved by the commission under this subdivision shall not include either of the following:

- (A) The issuance of bonds.
- (B) Loan origination or loan capitalization activities. This paragraph shall not preclude the commission or the auxiliary organization from undertaking either of the following:
 - (i) Other permitted activities that are related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.
 - (ii) Loan origination or capitalization activities authorized pursuant to an agreement with the United States Secretary of Education for the lender-of-last-resort program.

(b) The auxiliary organization shall be established and maintained as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) (1) The commission shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program and other permitted activities that are related to student financial aid, if those services are determined by the commission to be consistent with the overall mission of the commission.

(2) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not authorize the auxiliary organization to perform any new or additional services except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(3) The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of commission programs and services. The commission shall conduct regular performance evaluations of the operation of auxiliary organizations in furtherance of its fiscal and fiduciary responsibilities for approved programs.

(d) (1) (A) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually

by the commission. On and after January 1, 2002, the commission may approve an operating agreement for a period not to exceed five years. Prior to approval, the commission shall provide a copy of the proposed operating agreement to the Department of Finance and the Joint Legislative Budget Committee for their review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(B) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not approve any operating agreement that permits the auxiliary organization to perform any new or additional services, except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(2) Prior to approval of any amendment to an existing operating agreement or any new operating agreement with an auxiliary organization or subsidiary auxiliary organization for the purpose of delineating new services or activities authorized pursuant to subdivision (a), the commission shall provide the Director of Finance and the Joint Legislative Budget Committee with at least 45 days advance notice in writing that includes a description of the proposed operating agreement. If the Director of Finance or the Joint Legislative Budget Committee notifies the commission regarding issues of concern with the proposed operating agreement, the commission shall convene a meeting of appropriate representatives from the commission, the Department of Finance, and the Legislature to resolve those issues.

(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 30. Section 69561 of the Education Code is amended to read:

69561. (a) The Student Opportunity and Access Program is administered by the Student Aid Commission.

(b) The Student Aid Commission may apportion funds on a progress payment schedule for the support of projects designed to increase the accessibility of postsecondary educational opportunities for any of the following elementary and secondary school pupils:

- (1) Pupils who are from low-income families.
- (2) Pupils who would be the first in their families to attend college.
- (3) Pupils who are from schools or geographic regions with documented low-eligibility or college participation rates.

(c) These projects shall primarily do all of the following:

- (1) Increase the availability of information for these pupils on the existence of postsecondary schooling and work opportunities.
- (2) Raise the achievement levels of these pupils so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities.

(d) Projects may assist community college students in transferring to four-year institutions, to the extent that project resources are available.

(e) Projects may provide assistance to low-income fifth and sixth grade pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school and complete college preparatory courses.

(f) Projects may provide assistance to low-income middle and high school pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school by promoting career technical education public awareness. Projects shall promote the value of career technical education, available career programs in public schools and postsecondary segments with sequenced courses beginning in high school and continuing into postsecondary education, and the resulting career opportunities.

(g) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office, at least one four-year college or university, at least one community college, and at least one of the following agencies:

(1) A nonprofit educational, counseling, or community agency.

(2) A private vocational or technical school accredited by a national, state, or regional accrediting association recognized by the United States Department of Education.

(h) The commission, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(i) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(j) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The pupils to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(k) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to preparing pupils for postsecondary education.

(l) Each project shall maintain within the project headquarters a comprehensive pupil-specific information system on pupils receiving services through the program in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.

(m) At least 30 percent or the equivalent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:

(1) Work with secondary school pupils.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(n) Each project should work cooperatively with other projects in the program and with the commission to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

SEC. 31. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be twenty dollars (\$20) per unit per semester, effective with the spring term of the 2006–07 academic year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by regulations of the board of governors.

(3) Paragraphs (1) and (2) may be applied to a student enrolled in the 2005–06 academic year if the student is exempted from nonresident tuition under paragraph (3) of subdivision (a) of Section 76140.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. “Active service of the state,” for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the

criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(l) (1) “Dependent,” for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive. It is the intent of the Legislature that funds provided pursuant to this subdivision be used to support the determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. It also is the intent of the Legislature that the funds provided pursuant to this subdivision directly offset mandated costs claimed by community college districts pursuant to Commission on State Mandates consolidated Test Claims 99-TC-13 (Enrollment Fee Collection) and 00-TC-15 (Enrollment Fee Waivers). Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992–93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

SEC. 32. Notwithstanding any other law, the sum of twelve million five hundred thousand dollars (\$12,500,000) is hereby appropriated from the Public Interest Research, Development, and Demonstration Fund to the Chancellor of the California Community Colleges.

(a) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer twelve million dollars (\$12,000,000) to the State Department of Education for expenditure in one-time funds for local grants to be allocated pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code over three years as specified in the Budget Act of 2008. In addition to the statutory program requirements, grantees shall create partnership academies that focus on clean technology and energy businesses and provide skilled workforces for the products and services for energy or water conservation, or both, renewable energy, pollution reduction, or other technologies that improve the environment in furtherance of state environmental laws. Priority for grants pursuant to this subdivision shall be assigned to school districts that do not currently participate in the partnership academies program pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code. Existing grantees may apply subject to the availability of funds.

(b) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer five hundred thousand dollars (\$500,000) to the State Department of Education to pay for the expenses of administering the local grants pursuant to this section. Funding for purposes of this section shall be provided pursuant to an interagency agreement between the Chancellor of the California Community Colleges and the State Department of Education.

SEC. 33. (a) The sum of thirty nine million seven hundred eighty thousand dollars (\$39,780,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of Schedule (1) of Item 6870–101–0001 of Section 2.00 of the Budget Act of 2008, for the purpose of providing a 0.68 percent cost-of-living adjustment to apportionments to community college districts, for expenditure during the 2008–09 fiscal year.

(b) For the 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 community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2008–09 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 2008–09 fiscal year.

SEC. 34. (a) The sum of three hundred eighty-eight million two hundred eighty-three thousand dollars (\$388,283,000) is hereby appropriated from the General Fund to the State Department of Education. This appropriation reflects the portion of the June 2009 principal apportionment that is to be deferred until July 2009 and attributed to the 2009–10 fiscal year. Notwithstanding any other law, the department shall encumber the funds appropriated in this section by July 31, 2009. It is the intent of the Legislature that, by extending the encumbrance authority for the funds appropriated in

this section to July 31, 2009, the funds will be treated in a manner consistent with Section 1.80 of the Budget Act of 2008. The appropriation is made in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars (\$6,227,000) for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2008.

(2) Ninety million one hundred seventeen thousand dollars (\$90,117,000) for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2008. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars (\$51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2008, twelve million three hundred thirty thousand dollars (\$12,330,000) shall be expended consistent with Schedule (2) of that item, four million six hundred ninety thousand dollars (\$4,690,000) shall be expended consistent with Schedule (3) of that item, and twenty-two million thirty-six thousand dollars (\$22,036,000) shall be expended consistent with Schedule (4) of that item.

(3) Thirty-nine million six hundred thirty thousand dollars (\$39,630,000) for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2008.

(4) Fifty-two million five hundred eighty-three thousand dollars (\$52,583,000) for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2008.

(5) Four million two hundred ninety-four thousand dollars (\$4,294,000) for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2008.

(6) Forty-five million eight hundred ninety-six thousand dollars (\$45,896,000) for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2008.

(7) Four million seven hundred fifty-one thousand dollars (\$4,751,000) for community day schools to be expended consistent with the requirements specified in Item 6110-190-0001 of Section 2.00 of the Budget Act of 2008.

(8) Five million nine hundred forty-seven thousand dollars (\$5,947,000) for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 of the Budget Act of 2008.

(9) Thirty-eight million seven hundred twenty thousand dollars (\$38,720,000) for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of 2008.

(10) One hundred million one hundred eighteen thousand dollars (\$100,118,000) for the Targeted Instructional Improvement Grant Program

to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of 2008.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations 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 2009–10 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 2009–10 fiscal year.

SEC. 35. (a) The sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for apportionments to community college districts, for expenditure during the 2009–10 fiscal year, to be expended in accordance with Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2008.

(b) For the 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 community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2009–10 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 2009–10 fiscal year.

SEC. 36. Notwithstanding paragraphs (1) and (2) of subdivision (d) of Section 41207 of the Education Code, there shall be no annual appropriation in the 2008–09 fiscal year from the General Fund to the Controller for allocation by the Controller to school districts and community colleges for the purposes described in Section 41207.

SEC. 37. (a) Notwithstanding Sections 42238.1 and 42238.15 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-196-0001, 6110-232-0001, 6110-234-0001, 6110-244-0001, and 6110-246-0001 of Section 2.00 of the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007) and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2008 is zero percent for the 2008–09 fiscal year. All funds appropriated in the Budget Act of 2008 in the items identified in this section are in lieu of the amounts that would otherwise be appropriated pursuant to any other provision of law.

(b) Notwithstanding Section 42238.1 of the Education Code or any other provision of law, for purposes of Section 48664 of the Education Code the cost-of-living adjustment is zero percent for the 2008–09 fiscal year.

SEC. 38. Notwithstanding any other provision of law, the funds appropriated pursuant to Items 6110-103-0001, 6110-104-0001,

6110-105-0001, 6110-111-0001, 6110-124-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-190-0001, 6110-211-0001, and 6110-243-0001 of Section 2.00 of the Budget Act of 2008 shall be encumbered by July 31, 2009. This one-month extension of encumbrance authority is provided due to the effect of the deferral of the June 2009 principal apportionment on the budget items specified in this section. It is the intent of the Legislature that, by extending the encumbrance authority for the funds identified in this section to July 31, 2009, the funds will be treated in a manner consistent with Section 1.80 of the Budget Act of 2008.

SEC. 39. 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:

In order to make the necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary that this act take effect immediately.