

Assembly Bill No. 114

Passed the Assembly June 28, 2011

Chief Clerk of the Assembly

Passed the Senate June 28, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1240, 1622, 2558.46, 8201, 8208, 8263.2, 8263.4, 8447, 8499, 42127, 42238.146, 44955.5, 56325, and 69432.7 of, to amend and renumber Section 60422.3 of, to amend and repeal Sections 56139 and 56331 of, to amend, repeal, and add Sections 8203.5, 41202, and 76300 of, to add Sections 41202.5, 41210, 41211, 42251, and 46201.3 to, and to repeal and add Section 42606 of, the Education Code, to amend Section 7911.1 of the Family Code, to amend Sections 7572, 7582, 7585, 12440.1, and 17581.5 of, to amend and repeal Sections 7572.5, 7572.55, 7576, 7576.2, 7576.3, 7576.5, 7586.5, 7586.6, and 7586.7 of, and to repeal Section 7588 of, the Government Code, and to amend Sections 5651 and 11323.2 of, to amend and repeal Sections 5701.3 and 5701.6 of, to add and repeal Section 18356.1 of, and to repeal Chapter 6 (commencing with Section 18350) of Part 6 of Division 9 of, the Welfare and Institutions Code, relating to education finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL’S DIGEST

AB 114, Committee on Budget. Education finance.

(1) Existing law requires a county superintendent of schools to certify in writing whether or not the county office of education is able to meet its financial obligations for the current and 2 subsequent fiscal years. Existing law requires a county superintendent of schools to approve, conditionally approve, or disapprove the adopted budget for the school districts under his or her jurisdiction and to determine whether the adopted budget is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

This bill would require the budgets of a county office of education and a school district for the 2011–12 fiscal year to project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year, and would delete the certification requirement regarding the 2 fiscal years subsequent to the 2011–12 fiscal year. The bill would prohibit the

Superintendent of Public Instruction from requiring a county office of education to do otherwise.

(2) Existing law requires a revenue limit to be calculated for each county superintendent of schools, adjusted for various factors, and reduced, as specified. Existing law reduces the revenue limit for each county superintendent of schools for the 2011–12 fiscal year by a deficit factor of 19.892%.

This bill instead would set the deficit factor for each county superintendent of schools for the 2011–12 fiscal year at 20.041%.

(3) The Child Care and Development Services Act, administered by the State Department of Education, provides that children who are 10 years of age or younger, children with exceptional needs, children 12 years of age or younger who are recipients of child protective services or at risk of abuse, neglect, or exploitation, children 12 years of age or younger who are provided services during nontraditional hours, children 12 years of age or younger who are homeless, and children who are 11 and 12 years of age, as funding permits, as specified, are eligible, with certain requirements, for child care and development services.

This bill would instead provide that children from infancy to 13 years of age and their parents are eligible, with certain requirements, for child care and development services.

(4) Existing law requires that a child who is 11 or 12 years of age and who is otherwise eligible for subsidized child care and development services, except for his or her age, be given first priority for enrollment, and in cases of programs operating at full capacity, first priority on the waiting list for a before or after school program, as specified. Existing law also requires contractors to provide each family of an otherwise eligible 11 or 12 year old child with information about the availability of before and after school programs located in the family's community.

This bill would instead provide that the preferred placement for children who are 11 or 12 years of age and who are otherwise eligible for subsidized child care and development services is in a before or after school program. The bill would specify criteria for the provision of subsidized child care services for children who are 11 and 12 years of age.

(5) Existing law, effective July 1, 2011, requires the State Department of Education to reduce the maximum reimbursable amounts of the contracts for the Preschool Education Program, the

General Child Care Program, the Migrant Day Care Program, the Alternative Payment Program, the CalWORKs Stage 3 Program, and the Allowance for Handicapped Program by 15%, as specified.

This bill would instead provide that the reduction in the maximum reimbursable amounts of the contracts for the programs listed above would be 11% or whatever proportion is necessary to ensure that expenditures for these programs do not exceed the amounts appropriated for them, including any reductions made subsequent to the adoption of the annual Budget Act.

(6) Existing law requires that the cost of state-funded child care services be governed by regional market rates, and establishes a family fee schedule reflecting specified income eligibility limits. Existing law revises the family fee schedule that was in effect for the 2007–08, 2008–09, 2009–10, and 2010–11 fiscal years to reflect an increase of 10% to existing fees, and requires the State Department of Education to submit an adjusted fee schedule to the Department of Finance for approval in order to be implemented by July 1, 2011.

This bill would delete the provision requiring the fee schedule to reflect a 10% increase in family fees.

(7) Under existing law (Proposition 98), the California Constitution requires the state to comply with a minimum funding obligation each fiscal year with respect to the support of school districts and community college districts. Existing statutory law specifies that state funding for the Child Care and Development Services Act is included within the calculation of state apportionments that apply toward this constitutional funding obligation.

This bill would, commencing July 1, 2011, specify that funds appropriated for the Child Care and Development Services Act do not apply toward the constitutional minimum funding obligation for school districts and community college districts, with the exception of state funding for the part-day California state preschool programs and the After School Education and Safety Program.

The bill would make related changes in the calculation of the minimum funding obligation required by Proposition 98.

(8) Existing law prescribes the percentage of General Fund revenues appropriated for school districts and community college

districts for purposes of the provisions of the California Constitution requiring minimum funding for the public schools.

This bill would state that specified sales and use tax revenues transferred pursuant to certain provisions of the Revenue and Taxation Code are not General Fund revenues for these purposes. The bill would provide that its provisions would be operative for the 2011–12 fiscal year and subsequent years only if one or more ballot measures approved before November 17, 2012, authorize those revenues to be so treated, and provide funding for school districts and community college districts in an amount equal to that which would have been provided if the tax revenues were General Fund revenues.

The bill would require, if the aforementioned provisions of law are rendered inoperative because the ballot measure or measures are not approved, that by December 17, 2012, the Director of Finance, in consultation with the Superintendent of Public Instruction, determine the amount by which the minimum amount of moneys required to be applied by the state for the support of school districts and community college districts was reduced pursuant to the operation of the aforementioned provisions of law for the 2011–12 fiscal year. Following the determination of this amount, the bill would appropriate an amount equal to 17.8% of that amount from the General Fund to the Superintendent for each of the 2012–13 to 2016–17, inclusive, fiscal years in accordance with a specified priority order, and would appropriate 2.2% of that amount from the General Fund to the Chancellor of the California Community Colleges for each of the 2012–13 to 2016–17, inclusive, fiscal years, in accordance with a specified priority order.

(9) 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. Existing law reduces the revenue limit for each school district for the 2011–12 fiscal year by a deficit factor of 19.608%.

This bill instead would set the deficit factor for each school district for the 2011–12 fiscal year at 19.754%.

(10) Under existing law, county offices of education receive certain property tax revenues. Existing law requires a revenue limit to be calculated for each county superintendent of schools, and requires the amount of the revenue limit to be adjusted for various

factors, including the amount of property tax revenues a county office of education receives.

This bill would require the Superintendent of Public Instruction for the 2011–12 fiscal year to determine the amount of excess property taxes available to county offices of education, and would require the auditor-controller of each county to distribute those amounts to the Supplemental Revenue Augmentation Fund within the county exclusively to reimburse the state for the costs of providing trial court services and costs until those moneys are exhausted. By imposing additional duties on local agency officials, this bill would impose a state-mandated local program.

(11) Existing law requires the Superintendent of Public Instruction to allocate, for the 2010–11 and 2011–12 fiscal years, a supplemental categorical block grant to a charter school that begins operation in the 2008–09, 2009–10, 2010–11, or 2011–12 fiscal year. Existing law requires that this supplemental categorical block grant equal \$127 per unit of charter school average daily attendance as determined at the 2010–11 2nd principal apportionment for schools commencing operations in the 2008–09, 2009–10, or 2010–11 fiscal year and at the 2011–12 2nd principal apportionment for schools commencing operations in the 2011–12 fiscal year. Existing law prohibits a locally funded charter school that converted from a preexisting school between the 2008–09 and 2011–12 fiscal years, inclusive, from receiving these funds.

This bill instead would provide that, to the extent funds are provided, for the 2010–11 to the 2014–15 fiscal years, inclusive, a supplemental categorical block grant would be allocated to charter schools commencing operations during or after the 2008–09 fiscal year. The bill would provide that a locally or direct funded charter school, not just a locally funded charter school, that converted from a preexisting school between the 2008–09 and 2014–15 fiscal years, inclusive, would be prohibited from receiving these funds.

The bill would provide that for, the 2010–11 to the 2014–15 fiscal years, inclusive, the supplemental categorical block grant received by eligible charter schools would equal \$127 per unit of charter school average daily attendance for charter schools commencing operations during or after the 2008–09 fiscal year, as specified.

(12) Existing law authorizes the governing board of a school district to terminate the services of any certificated employees of

the district during the time period between 5 days after the enactment of the Budget Act and August 15 of the fiscal year to which that Budget Act applies if the governing board of a school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2% and if in the opinion of the governing board it is therefore necessary to decrease the number of permanent employees in the district.

This bill would make this provision inoperative from July 1, 2011, to July 1, 2012, inclusive.

(13) Existing law sets forth the minimum number of instructional days and minutes school districts, county offices of education, and charter schools are required to offer.

This bill, for the 2011–12 school year, would reduce the minimum number of required instructional days and minutes by up to 7 days, and would reduce the revenue limit for each school district, county office of education, and charter school, as specified. The bill would require implementation of this reduction by a school district, county office of education, and charter school that is subject to collective bargaining to be achieved through the bargaining process, provided that the agreement has been completed and reductions implemented no later than June 30, 2012. These provisions would be operative only for the 2011–12 school year and only if the Director of Finance determines that the state revenue forecast does not meet a specified amount.

(14) Existing law requires school districts, county offices of education, and special education local plan areas to comply with state laws that conform to the federal Individuals with Disabilities Education Act (IDEA), in order that the state may qualify for federal funds available for the education of individuals with exceptional needs. Existing law requires school districts, county offices of education, and special education local plan areas to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, and with special education and related services as reflected in an individualized education program (IEP). Existing law requires the Superintendent of Public Instruction to administer the special education provisions of the Education Code and to be responsible for assuring provision of,

and supervising, education and related services to individuals with exceptional needs as required pursuant to the federal IDEA.

Existing law authorizes referral, through a prescribed process, of a pupil who is suspected of needing mental health services to a community mental health service. Existing law requires the State Department of Mental Health or a designated community mental health service to be responsible for the provision of mental health services, as defined, if required in a pupil's IEP.

This bill would make these provisions concerning referral for mental health services inoperative as of July 1, 2011, would repeal them as of January 1, 2012, and would make other related conforming changes.

(15) Existing law, for the 2008–09 to the 2014–15 fiscal years, inclusive, provides that the governing board of a school district is not required to provide pupils with instructional materials by a specified period of time following adoption of those materials by the State Board of Education.

This bill would make a technical, nonsubstantive change in this provision by changing its section number.

(16) Existing law, the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program (Cal Grant Program), establishes the Cal Grant A and B Entitlement Awards, the California Community College Transfer Entitlement Awards, the Competitive Cal Grant A and B Awards, the Cal Grant C Awards, and the Cal Grant T Awards under the administration of the Student Aid Commission, and establishes eligibility requirements for awards under these programs for participating students attending qualifying institutions.

Existing law imposes requirements on qualifying institutions, requiring the commission to certify by October 1 of each year the institution's latest 3-year cohort default rate as most recently reported by the United States Department of Education. Existing law provides that an otherwise qualifying institution that did not meet a specified 3-year cohort default rate would be ineligible for new Cal Grant awards at the institution. Under the Cal Grant Program, for the 2012–13 academic year and every academic year thereafter, an otherwise qualifying institution with a 3-year cohort default rate that is equal to or greater than 30% is ineligible for initial or renewal Cal Grant awards at the institution, except as specified.

This bill instead would specify that an otherwise qualifying institution with a 3-year cohort default rate that is equal to or greater than 30% is ineligible for initial and renewal Cal Grant awards at the institution, except as specified.

(17) Existing law establishes the California State University under the administration of the Trustees of the California State University. Existing law authorizes the trustees to draw from funds appropriated to the university, for use as a revolving fund, amounts necessary to make payments of obligations of the university directly to vendors. Existing law requires the trustees to contract with one or more public accounting firms to conduct systemwide and individual campus annual financial statement and compliance audits. Existing law further requires that at least 10 individual campus audits be conducted annually on a rotating basis, and that each campus be audited at least once every 2 years.

This bill would require the annual audits to be conducted in accordance with generally accepted accounting principles. The bill would delete the requirements that at least 10 individual campus audits be conducted annually on a rotating basis, and that each campus be audited at least once every 2 years. The bill would require that the statements of net assets, revenues, expenses, changes in net assets, and cashflows be included as an addendum to the annual systemwide audit.

(18) Existing law requires the governing board of each community college district to charge each student a fee, and sets that fee at \$36 per unit per semester.

This bill would raise the fee to \$46 per unit per semester if the Director of Finance determines that the state revenue forecast does not meet a specified amount.

(19) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law provides that no local agency or school district is required to implement or give effect to any statute or executive order, or portion thereof, that imposes a mandate during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if specified conditions are met, including that the statute or executive order, or portion thereof,

has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. Existing law provides that only certain specified mandates are subject to that provision.

This bill would specify that 2 additional mandates relating to community college districts are included among those that are subject to the provision.

(20) The Administrative Procedure Act, among other things, sets forth procedures for the development, adoption, and promulgation of regulations by administrative agencies charged with the implementation of statutes.

This bill would authorize the State Department of Social Services and the State Department of Education, notwithstanding the procedures required by the Administrative Procedure Act, to implement the provisions of the bill that relate to the Child Care and Development Services Act through all-county letters, management bulletins, or other similar instructions.

(21) This bill would provide that the implementation of the provisions of the bill related to the provision of child care services would not be subject to the appeal and resolution procedures for agencies that contract with the State Department of Education for these purposes.

(22) This bill would express the intent of the Legislature that specified funding in the Budget Act of 2011 related to educationally related mental health services would be exclusively available only for the 2011–12 and 2012–13 fiscal years.

(23) This bill would express the intent of the Legislature that the State Department of Education and appropriate departments within the California Health and Human Services Agency modify or repeal regulations pertaining to the elimination of statutes pursuant to this bill related to mental health services provided by county mental health agencies. The bill would require the State Department of Education and appropriate departments within the California Health and Human Services Agency to review regulations to ensure appropriate implementation of educationally related mental health services required by the federal Individuals with Disabilities Education Act and of certain statutes enacted pursuant to this bill. The bill would authorize the State Department of Education and appropriate departments within the California Health and Human Services Agency to utilize the statutory process

for adopting emergency regulations in implementing certain statutes enacted pursuant to this bill.

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

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

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

(26) Existing law requires the State Department of Education to award grants to school districts, county superintendents of schools, or entities approved by the department for nonrecurring expenses incurred in initiating or expanding a school breakfast program or a summer food service program.

This bill would make an appropriation of \$1,000 for purposes of these grants.

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

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

Appropriation: yes.

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

SECTION 1. Section 1240 of the Education Code is amended to read:

1240. The county superintendent of schools shall do all of the following:

- (a) Superintend the schools of his or her county.
- (b) Maintain responsibility for the fiscal oversight of each school district in his or her county pursuant to the authority granted by this code.
- (c) (1) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. He or she annually may present a report of the state of

the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API), as defined in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools and his or her determinations for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. As a condition for receipt of funds, the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details for each school.

(B) Commencing with the 2007–08 fiscal year, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section 52056. As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized

template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision. For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall include schools determined by the department to meet either of the following:

(i) The school meets all of the following criteria:

(I) Does not have a valid base API score for 2006.

(II) Is operating in fiscal year 2007–08 and was operating in fiscal year 2006–07 during the Standardized Testing and Reporting (STAR) Program testing period.

(III) Has a valid base API score for 2005 that was ranked in deciles 1 to 3, inclusive, in that year.

(ii) The school has an estimated base API score for 2006 that would be in deciles 1 to 3, inclusive.

(C) The department shall estimate an API score for any school meeting the criteria of subclauses (I) and (II) of clause (i) of subparagraph (B) and not meeting the criteria of subclause (III) of clause (i) of subparagraph (B), using available test scores and weighting or corrective factors it deems appropriate. The department shall post the API scores on its Internet Web site on or before May 1.

(D) For purposes of this section, references to schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall exclude schools operated by county offices of education pursuant to Section 56140, as determined by the department.

(E) In addition to the requirements above, the county superintendent, or his or her designee, annually shall verify both of the following:

(i) That pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(ii) That pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(F) (i) Commencing with the 2010–11 fiscal year and every third year thereafter, the Superintendent shall identify a list of schools ranked in deciles 1 to 3, inclusive, of the API for which the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county that describes the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the base API as defined in clause (ii).

(ii) For the 2010–11 fiscal year, the list of schools ranked in deciles 1 to 3, inclusive, of the base API shall be updated using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the 2009 base API and thereafter shall be updated every third year using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the base API of the year preceding the third year consistent with clause (i).

(iii) As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision.

(G) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.

(H) On a quarterly basis, the county superintendent, or his or her designee, shall report the results of the visits and reviews

conducted that quarter to the governing board of the school district at a regularly scheduled meeting held in accordance with public notification requirements. The results of the visits and reviews shall include the determinations of the county superintendent, or his or her designee, for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. If the county superintendent, or his or her designee, conducts no visits or reviews in a quarter, the quarterly report shall report that fact.

(I) The visits made pursuant to this paragraph shall be conducted at least annually and shall meet the following criteria:

(i) Minimize disruption to the operation of the school.

(ii) Be performed by individuals who meet the requirements of Section 45125.1.

(iii) Consist of not less than 25 percent unannounced visits in each county. During unannounced visits in each county, the county superintendent shall not demand access to documents or specific school personnel. Unannounced visits shall only be used to observe the condition of school repair and maintenance, and the sufficiency of instructional materials, as defined by Section 60119.

(J) The priority objective of the visits made pursuant to this paragraph shall be to determine the status of all of the following circumstances:

(i) Sufficient textbooks as defined in Section 60119 and as specified in subdivision (i).

(ii) The condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72.

(iii) The accuracy of data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, as defined by Section 60119, and the safety, cleanliness, and adequacy of school facilities, including good repair as required by Sections 17014, 17032.5, 17070.75, and 17089.

(iv) The extent to which pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit

examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(v) The extent to which pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(K) The county superintendent may make the status determinations described in subparagraph (J) during a single visit or multiple visits. In determining whether to make a single visit or multiple visits for this purpose, the county superintendent shall take into consideration factors such as cost-effectiveness, disruption to the schoolsite, deadlines, and the availability of qualified reviewers.

(L) If the county superintendent determines that the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72, or is not in good repair, as specified in subdivision (d) of Section 17002 and required by Sections 17014, 17032.5, 17070.75, and 17089, the county superintendent, among other things, may do any of the following:

(i) Return to the school to verify repairs.

(ii) Prepare a report that specifically identifies and documents the areas or instances of noncompliance if the district has not provided evidence of successful repairs within 30 days of the visit of the county superintendent or, for major projects, has not provided evidence that the repairs will be conducted in a timely manner. The report may be provided to the governing board of the school district. If the report is provided to the school district, it shall be presented at a regularly scheduled meeting held in accordance with public notification requirements. The county superintendent shall post the report on his or her Internet Web site. The report shall be removed from the Internet Web site when the county superintendent verifies the repairs have been completed.

(d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(e) Annually, on or before August 15, present a report to the governing board of the school district and the Superintendent regarding the fiscal solvency of a school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined to be in a position of fiscal uncertainty pursuant to Section 42127.6.

(f) Keep in his or her office the reports of the Superintendent.

(g) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of an applicant or his or her authorized agent.

(h) Enforce the course of study.

(i) (1) Enforce the use of state textbooks and instructional materials and of high school textbooks and instructional materials regularly adopted by the proper authority in accordance with Section 51050.

(2) For purposes of this subdivision, sufficient textbooks or instructional materials has the same meaning as in subdivision (c) of Section 60119.

(3) (A) Commencing with the 2005–06 school year, if a school is ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), and not currently under review pursuant to a state or federal intervention program, the county superintendent specifically shall review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be completed by the fourth week of the school year. For the 2004–05 fiscal year only, the county superintendent shall make a diligent effort to conduct a visit to each school pursuant to this paragraph within 120 days of receipt of funds for this purpose.

(B) In order to facilitate the review of instructional materials before the fourth week of the school year, the county superintendent in a county with 200 or more schools that are ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), may utilize a combination of visits and written surveys of teachers for the purpose of determining sufficiency of textbooks and instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined in subdivision (c) of Section 60119. If a county superintendent elects to conduct written surveys of teachers, the county superintendent shall visit the schools surveyed within the same academic year to verify the accuracy of the information reported on the surveys. If a county superintendent surveys teachers at a school in which the county superintendent has found sufficient textbooks and instructional materials for the

previous two consecutive years and determines that the school does not have sufficient textbooks or instructional materials, the county superintendent shall within 10 business days provide a copy of the insufficiency report to the school district as set forth in paragraph (4).

(C) For purposes of this paragraph, “written surveys” may include paper and electronic or online surveys.

(4) If the county superintendent determines that a school does not have sufficient textbooks or instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined by subdivision (c) of Section 60119, the county superintendent shall do all of the following:

(A) Prepare a report that specifically identifies and documents the areas or instances of noncompliance.

(B) Provide within five business days of the review, a copy of the report to the school district, as provided in subdivision (c), or, if applicable, provide a copy of the report to the school district within 10 business days pursuant to subparagraph (B) of paragraph (3).

(C) Provide the school district with the opportunity to remedy the deficiency. The county superintendent shall ensure remediation of the deficiency no later than the second month of the school term.

(D) If the deficiency is not remedied as required pursuant to subparagraph (C), the county superintendent shall request the department to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the department purchases textbooks or instructional materials for the school district, the department shall issue a public statement at the first regularly scheduled meeting of the state board occurring immediately after the department receives the request of the county superintendent and that meets the applicable public notice requirements, indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials as required by this subdivision. Before purchasing the textbooks or instructional materials, the department shall consult with the district to determine which textbooks or instructional materials to purchase. All purchases of textbooks or instructional materials shall comply with Chapter 3.25 (commencing with Section 60420) of Part 33. The amount of funds necessary for the purchase of the textbooks and

materials is a loan to the school district receiving the textbooks or instructional materials. Unless the school district repays the amount owed based upon an agreed-upon repayment schedule with the Superintendent, the Superintendent shall notify the Controller and the Controller shall deduct an amount equal to the total amount used to purchase the textbooks and materials from the next principal apportionment of the district or from another apportionment of state funds.

(j) Preserve carefully all reports of school officers and teachers.

(k) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the department.

(l) (1) Submit two reports during the fiscal year to the county board of education in accordance with the following:

(A) The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to a county office of education that, based upon current projections, will not meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to a county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to a county office of education that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify a certification. If a county office of education receives a negative certification,

the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

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

(ii) For the 2011–12 fiscal year, the county superintendent shall not be required to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

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

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, however, he

or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of a certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of an educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of an educational program has been reported.

SEC. 2. Section 1622 of the Education Code is amended to read:

1622. (a) On or before July 1 of each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing required under Section 1620.

(b) The Superintendent of Public Instruction shall examine the budget to determine whether it (1) complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the county office of education to meet its financial obligations during the fiscal year, and (3) is consistent with a financial plan that will enable the county office of education to satisfy its multiyear financial commitments. In addition, the Superintendent shall identify any technical corrections to the budget that must be made. On or before August 15, the Superintendent of Public Instruction shall approve or disapprove the budget and, in the event of a disapproval, transmit to the county office of education in writing his or her recommendations regarding revision of the budget and the reasons for those recommendations. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the Superintendent, as a condition on approval of a county office of education budget, shall not require a county office of education to

project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the county superintendent to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

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

(d) The Superintendent of Public Instruction shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than October 8, shall approve or disapprove the revised budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the Superintendent, as a condition on approval of a county office of education budget, shall not require a county office of education to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the county superintendent to certify in writing whether or not the county office of education is able to meet its financial obligations for the two subsequent fiscal years.

(e) Notwithstanding any other provision of this section, the budget review for a county office of education shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by

subdivisions (c) and (d), if the county board of education so elects, and notifies the Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year.

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

(2) No later than October 8, after receiving the response required under paragraph (1), the Superintendent of Public Instruction shall review that response and either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

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

SEC. 3. 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 7.839 percent deficit factor.

(6) For the 2009–10 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by an 18.621 percent deficit factor.

(7) For the 2010–11 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by an 18.250 percent deficit factor.

(8) For the 2011–12 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 20.041 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 subdivision (a).

(c) In computing the revenue limit for each county superintendent of schools for the 2010–11 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 2009–10 fiscal year without being reduced by the deficit factors specified in subdivision (a).

(d) In computing the revenue limit for each county superintendent of schools for the 2011–12 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 2010–11 fiscal year without being reduced by the deficit factors specified in subdivision (a).

(e) In computing the revenue limit for each county superintendent of schools for the 2012–13 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 2011–12 fiscal year without being reduced by the deficit factor specified in subdivision (a).

SEC. 4. Section 8201 of the Education Code is amended to read:

8201. The purpose of this chapter is as follows:

(a) To provide a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range

of supervision, health, and support services through full- and part-time programs.

(b) To encourage community-level coordination in support of child care and development services.

(c) To provide an environment that is healthy and nurturing for all children in child care and development programs.

(d) To provide the opportunity for positive parenting to take place through understanding of human growth and development.

(e) To reduce strain between parent and child in order to prevent abuse, neglect, or exploitation.

(f) To enhance the cognitive development of children, with particular emphasis upon those children who require special assistance, including bilingual capabilities to attain their full potential.

(g) To establish a framework for the expansion of child care and development services.

(h) To empower and encourage parents and families of children who require child care services to take responsibility to review the safety of the child care program or facility and to evaluate the ability of the program or facility to meet the needs of the child.

SEC. 5. Section 8203.5 of the Education Code is amended to read:

8203.5. (a) The Superintendent shall ensure that each contract entered into under this chapter to provide child care and development services, or to facilitate the provision of those services, provides support to the public school system of this state through the delivery of appropriate educational services to the children served pursuant to the contract.

(b) The Superintendent shall ensure that all contracts for child care and development programs include a requirement that each public or private provider maintain a developmental profile to appropriately identify the emotional, social, physical, and cognitive growth of each child served in order to promote the child's success in the public schools. To the extent possible, the department shall provide a developmental profile to all public and private providers using existing profile instruments that are most cost efficient. The provider of any program operated pursuant to a contract under Section 8262 shall be responsible for maintaining developmental profiles upon entry through exit from a child development program.

(c) Notwithstanding any other provision of law, “moneys to be applied by the state,” as used in subdivision (b) of Section 8 of Article XVI of the California Constitution, includes funds appropriated for the Child Care and Development Service Act pursuant to Chapter 2 (commencing with Section 8200) of Part 6, whether or not those funds are allocated to school districts, as defined in Section 41302.5, or community college districts.

(d) This section is not subject to Part 34 (commencing with Section 62000).

(e) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 6. Section 8203.5 is added to the Education Code, to read:

8203.5. (a) The Superintendent shall ensure that each contract entered into under this chapter to provide child care and development services, or to facilitate the provision of those services, provides support to the public school system of this state through the delivery of appropriate educational services to the children served pursuant to the contract.

(b) The Superintendent shall ensure that all contracts for child care and development programs include a requirement that each public or private provider maintain a developmental profile to appropriately identify the emotional, social, physical, and cognitive growth of each child served in order to promote the child’s success in the public schools. To the extent possible, the department shall provide a developmental profile to all public and private providers using existing profile instruments that are most cost efficient. The provider of any program operated pursuant to a contract under Section 8262 shall be responsible for maintaining developmental profiles upon entry through exit from a child development program.

(c) This section is not subject to Part 34 (commencing with Section 62000) of Division 4 of Title 2.

(d) This section shall become operative on July 1, 2011.

SEC. 7. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) “Alternative payments” includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments

that are made by an agency to a parent for the parent's purchase of child care and development services.

(b) "Alternative payment program" means a local government agency or nonprofit organization that has contracted with the department pursuant to Section 8220.1 to provide alternative payments and to provide support services to parents and providers.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private nontax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(e) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(f) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(g) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(h) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(i) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 13 years of age, for any part of a day, by a public or

private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

- (1) General child care and development.
- (2) Migrant child care and development.
- (3) Child care provided by the California School Age Families Education Program (Article 7.1 (commencing with Section 54740) of Chapter 9 of Part 29 of Division 4 of Title 2).
- (4) California state preschool program.
- (5) Resource and referral.
- (6) Child care and development services for children with exceptional needs.
- (7) Family child care home education network.
- (8) Alternative payment.
- (9) Schoolage community child care.
- (j) “Child care and development services” means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.
- (k) “Children at risk of abuse, neglect, or exploitation” means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.
- (l) “Children with exceptional needs” means either of the following:
 - (1) Infants and toddlers under three years of age who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) and its implementing regulations. These children include an infant or toddler with a developmental delay or established risk condition, or who is at high risk of having a substantial developmental disability, as defined in subdivision (a) of Section 95014 of the Government Code. These children shall have active individualized family service plans, shall be receiving early intervention services, and shall be children who require the special attention of adults in a child care setting.
 - (2) Children ages 3 to 21 years, inclusive, who have been determined to be eligible for special education and related services

by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000) of Division 4 of Title 2, and who meet eligibility criteria described in Section 56026 and, Article 2.5 (commencing with Section 56333) of Chapter 4 of Part 30 of Division 4 of Title 2, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children shall have an active individualized education program, shall be receiving early intervention services or appropriate special education and related services, and shall be children who require the special attention of adults in a child care setting. These children include children with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (also referred to as emotional disturbance), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, who need special education and related services consistent with Section 1401(3)(A) of Title 20 of the United States Code.

(m) “Closedown costs” means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) “Cost” includes, but is not limited to, expenditures that are related to the operation of child care and development programs. “Cost” may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs. “Cost” may also include amounts for licensable facilities in the community served by the program, including lease payments or depreciation, downpayments, and payments of principal and interest on loans incurred to acquire, rehabilitate, or construct licensable facilities, but these costs shall not exceed fair market rents existing in the community in which the facility is located. “Reasonable and necessary costs” are costs that, in nature and amount, do not exceed what an ordinary prudent person would incur in the conduct of a competitive business.

(o) “Elementary school,” as contained in former Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early

childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(p) “Family child care home education network” means an entity organized under law that contracts with the department pursuant to Section 8245 to make payments to licensed family child care home providers and to provide educational and support services to those providers and to children and families eligible for state-subsidized child care and development services. A family child care home education network may also be referred to as a family child care home system.

(q) “Health services” include, but are not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(r) “Higher educational institutions” means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(s) “Intergenerational staff” means persons of various generations.

(t) “Limited-English-speaking-proficient and non-English-speaking-proficient children” means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(u) “Parent” means a biological parent, stepparent, adoptive parent, foster parent, caretaker relative, or any other adult living with a child who has responsibility for the care and welfare of the child.

(v) “Program director” means a person who, pursuant to Sections 8244 and 8360.1, is qualified to serve as a program director.

(w) “Proprietary child care agency” means an organization or facility providing child care, which is operated for profit.

(x) “Resource and referral programs” means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(y) “Severely disabled children” are children with exceptional needs from birth to 21 years of age, inclusive, who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, or severe mental retardation. “Severely disabled children” also include those individuals who would have been eligible for enrollment in a developmental center for handicapped pupils under Chapter 6 (commencing with Section 56800) of Part 30 of Division 4 of Title 2 as it read on January 1, 1980.

(z) “Short-term respite child care” means child care service to assist families whose children have been identified through written referral from a legal, medical, or social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child’s own home.

(aa) (1) “Site supervisor” means a person who, regardless of his or her title, has operational program responsibility for a child

care and development program at a single site. A site supervisor shall hold a permit issued by the Commission on Teacher Credentialing that authorizes supervision of a child care and development program operating in a single site. The Superintendent may waive the requirements of this subdivision if the Superintendent determines that the existence of compelling need is appropriately documented.

(2) For California state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential. A person who meets the qualifications of a program director under both Sections 8244 and 8360.1 is also qualified under this subdivision.

(ab) “Standard reimbursement rate” means that rate established by the Superintendent pursuant to Section 8265.

(ac) “Startup costs” means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(ad) “California state preschool program” means part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year-old children.

(ae) “Support services” means those services that, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) “Teacher” means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction that includes supervision of a number of aides, volunteers, and groups of children.

(ag) “Underserved area” means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized child care and development program services to the need for these services is low, as determined by the Superintendent.

(ah) “Workday” means the time that the parent requires temporary care for a child for any of the following reasons:

- (1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(ai) “Three-year-old children” means children who will have their third birthday on or before December 2 of the fiscal year in which they are enrolled in a California state preschool program.

(aj) “Four-year-old children” means children who will have their fourth birthday on or before December 2 of the fiscal year in which they are enrolled in a California state preschool program.

(ak) “Local educational agency” means a school district, a county office of education, a community college district, or a school district on behalf of one or more schools within the school district.

SEC. 8. Section 8263.2 of the Education Code is amended to read:

8263.2. (a) Notwithstanding any other law, effective July 1, 2011, the department shall reduce the maximum reimbursable amounts of the contracts for the Preschool Education Program, the General Child Care Program, the Migrant Day Care Program, the Alternative Payment Program, the CalWORKs Stage 3 Program, and the Allowance for Handicapped Program by 11 percent or by whatever proportion is necessary to ensure that expenditures for these programs do not exceed the amounts appropriated for them, including any reductions made subsequent to the adoption of the annual Budget Act. The department may consider the contractor’s performance or whether the contractor serves children in underserved areas as defined in subdivision (ag) of Section 8208 when determining contract reductions, provided that the aggregate reduction to each program specified in this subdivision is 11 percent or by whatever proportion is necessary to ensure that expenditures for these programs do not exceed the amounts appropriated for them, including any reductions made subsequent to the adoption of the annual Budget Act.

(b) Notwithstanding any other law, effective July 1, 2011, families shall be disenrolled from subsidized child care services, consistent with the priorities for services specified in subdivision (b) of Section 8263. Families shall be disenrolled in the following order:

(1) Families whose income exceeds 70 percent of the state median income (SMI) adjusted for family size, except for families whose children are receiving child protective services or are at risk of being neglected or abused.

(2) Families with the highest income below 70 percent of the SMI, in relation to family size.

(3) Families that have the same income and have been enrolled in child care services the longest.

(4) Families that have the same income and have a child with exceptional needs.

(5) Families whose children are receiving child protective services or are at risk of being neglected or abused, regardless of family income.

SEC. 9. Section 8263.4 of the Education Code is amended to read:

8263.4. (a) The preferred placement for children who are 11 or 12 years of age and who are otherwise eligible for subsidized child care and development services shall be in a before or after school program.

(b) Children who are 11 or 12 years of age shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before or after school program provided pursuant to Article 22.5 (commencing with Section 8482) or Article 22.6 (commencing with Section 8484.7). Contractors shall provide each family of an eligible 11 or 12 year old with the option of combining care provided in a before or after school program with subsidized child care in another setting, for those hours within a day when the before or after school program does not operate, in order to meet the child care needs of the family.

(c) Children who are 11 or 12 years of age, who are eligible for and who are receiving subsidized child care services, and for whom a before or after school program is not available, shall continue to receive subsidized child care services.

(d) A before or after school program shall be considered not available when a parent certifies in writing, on a form provided by the department that is translated into the parent's primary language pursuant to Sections 7295.4 and 7296.2 of the Government Code, the reason or reasons why the program would not meet the child care needs of the family. The reasons why a

before or after school program shall be considered not available shall include, but not be limited to, any of the following:

(1) The program does not provide services when needed during the year, such as during the summer, school breaks, or intersession.

(2) The program does not provide services when needed during the day, such as in the early morning, evening, or weekend hours.

(3) The program is too geographically distant from the child's school of attendance.

(4) The program is too geographically distant from the parents' residence.

(5) Use of the program would create substantial transportation obstacles for the family.

(6) Any other reason that makes the use of before or after school care inappropriate for the child or burdensome on the family.

(e) If an 11 or 12 year old child who is enrolled in a subsidized child development program becomes ineligible for subsidized child care under subdivision (b) and is disenrolled from the before or after school program, or if the before or after school program no longer meets the child care needs of the family, the child shall be given priority to return to the subsidized child care services upon the parent's notification of the contractor of the need for child care.

(f) This section does not apply to an 11 or 12 year old child with a disability, including a child with exceptional needs who has an individualized education program as required by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), or Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(g) The savings generated each contract year by the implementation of the changes made to this section by the act amending this section during the 2005–06 Regular Session shall remain with each alternative payment program, child development center, or other contractor for the provision of child care services, except for care provided by programs pursuant to Article 15.5 (commencing with Section 8350). Each contractor shall report annually to the department the amount of savings resulting from this implementation, and the department shall report annually to the Legislature the amount of savings statewide resulting from that implementation.

SEC. 10. Section 8447 of the Education Code is amended to read:

8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.

(b) (1) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions, including both family fee schedules and regional market rate schedules that are required to be adhered to by contract, and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.

(2) Notwithstanding paragraph (1), the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2005.

(3) Notwithstanding paragraph (1), for the 2006–07 fiscal year, the State Department of Education shall update the family fee schedules by family size, based on the 2005 state median income survey data for a family of four. The family fee schedule used during the 2005–06 fiscal year shall remain in effect. However, the department shall adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The family fees shall not exceed 10 percent of the family's monthly income.

(4) Notwithstanding any other law, the family fee schedule that was in effect for the 2007–08, 2008–09, 2009–10, and 2010–11 fiscal years shall be adjusted to reflect the income eligibility limits specified in subdivision (b) of Section 8263.1 for the 2011–12 fiscal year, and shall retain a flat fee per family. The revised family fee schedule shall begin at income levels at which families currently begin paying fees. The revised family fees shall not exceed 10 percent of the family’s monthly income. The State Department of Education shall first submit the adjusted fee schedule to the Department of Finance for approval in order to be implemented by July 1, 2011.

(5) It is the intent of the Legislature to fully fund the third stage of child care for former CalWORKs recipients.

(c) With respect to subdivision (b), it is the intent of the Legislature that the Department of Finance annually review contract funding terms and conditions for the primary purpose of ensuring consistency between child care contracts and the child care budget. This review shall include evaluating any proposed changes to contract language or other fiscal documents to which the contractor is required to adhere, including those changes to terms or conditions that authorize higher reimbursement rates, that modify related adjustment factors, that modify administrative or other service allowances, or that diminish fee revenues otherwise available for services, to determine if the change is necessary or has the potential effect of reducing the number of full-time equivalent children that may be served.

(d) Alternative payment child care systems, as set forth in Article 3 (commencing with Section 8220), shall be subject to the rates established in the Regional Market Rate Survey of California Child Care Providers for provider payments. The State Department of Education shall contract to conduct and complete a Regional Market Rate Survey no more frequently than once every two years, consistent with federal regulations, with a goal of completion by March 1.

(e) By March 1 of each year, the Department of Finance shall provide to the State Department of Education the State Median Income amount for a four-person household in California based on the best available data. The State Department of Education shall adjust its fee schedule for child care providers to reflect this updated state median income; however, no changes based on

revisions to the state median income amount shall be implemented midyear.

(f) Notwithstanding the June 1 date specified in subdivision (b), changes to the regional market rate schedules and fee schedules may be made at any other time to reflect the availability of accurate data necessary for their completion, provided these documents receive the approval of the Department of Finance. The Department of Finance shall review the changes within 30 working days of submission and the State Department of Education shall resolve conflicts within an additional 30 working day period. Contractors shall be given adequate notice prior to the effective date of the approved schedules. It is the intent of the Legislature that contracts for services not be delayed by the timing of the availability of accurate data needed to update these schedules.

(g) Notwithstanding any other provision of law, no family receiving CalWORKs cash aid may be charged a family fee.

SEC. 11. Section 8499 of the Education Code is amended to read:

8499. For purposes of this chapter, the following definitions shall apply:

(a) “Block grant” means the block grant contained in Title VI of the Child Care and Development Fund, as established by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

(b) “Child care” means all licensed child care and development services and license-exempt child care, including, but not limited to, private for-profit programs, nonprofit programs, and publicly funded programs, for all children up to and including 12 years of age, including children with exceptional needs and children from all linguistic and cultural backgrounds.

(c) “Child care provider” means a person who provides child care services or represents persons who provide child care services.

(d) “Community representative” means a person who represents an agency or business that provides private funding for child care services, or who advocates for child care services through participation in civic or community-based organizations but is not a child care provider and does not represent an agency that contracts with the State Department of Education to provide child care and development services.

(e) “Consumer” means a parent or person who receives, or who has received within the past 36 months, child care services.

(f) “Department” means the State Department of Education.

(g) “Local planning council” means a local child care and development planning council as described in Section 8499.3.

(h) “Public agency representative” means a person who represents a city, county, city and county, or local educational agency.

SEC. 12. Section 41202 of the Education Code is amended to read:

41202. The words and phrases set forth in subdivision (b) of Section 8 of Article XVI of the Constitution of the State of California shall have the following meanings:

(a) “Moneys to be applied by the State,” as used in subdivision (b) of Section 8 of Article XVI of the California Constitution, means appropriations from the General Fund that are made for allocation to school districts, as defined, or community college districts. An appropriation that is withheld, impounded, or made without provisions for its allocation to school districts or community college districts, shall not be considered to be “moneys to be applied by the State.”

(b) “General Fund revenues which may be appropriated pursuant to Article XIII B,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI, means General Fund revenues that are the proceeds of taxes as defined by subdivision (c) of Section 8 of Article XIII B of the California Constitution, including, for the 1986–87 fiscal year only, any revenues that are determined to be in excess of the appropriations limit established pursuant to Article XIII B for the fiscal year in which they are received. General Fund revenues for a fiscal year to which paragraph (1) of subdivision (b) is being applied shall include, in that computation, only General Fund revenues for that fiscal year that are the proceeds of taxes, as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, and shall not include prior fiscal year revenues. Commencing with the 1995–96 fiscal year, and each fiscal year thereafter, “General Fund revenues that are the proceeds of taxes,” as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, includes any portion of the proceeds of taxes received from the state sales tax that are transferred to the counties pursuant to, and only if, legislation is

enacted during the 1995–96 fiscal year the purpose of which is to realign children’s programs. The amount of the proceeds of taxes shall be computed for any fiscal year in a manner consistent with the manner in which the amount of the proceeds of taxes was computed by the Department of Finance for purposes of the Governor’s Budget for the Budget Act of 1986.

(c) “General Fund revenues appropriated for school districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, regardless of whether those appropriations were made from the General Fund to the Superintendent of Public Instruction, to the Controller, or to any other fund or state agency for the purpose of allocation to school districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of subdivision (b) of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(d) “General Fund revenues appropriated for community college districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to community college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of subdivision (b) of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(e) “Total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, and community

college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Superintendent of Public Instruction, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to school districts and community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(f) “General Fund revenues appropriated for school districts and community college districts, respectively” and “moneys to be applied by the state for the support of school districts and community college districts,” as used in Section 8 of Article XVI of the California Constitution, shall include funds appropriated for the Child Care and Development Services Act pursuant to Chapter 2 (commencing with Section 8200) of Part 6 and shall not include any of the following:

(1) Any appropriation that is not made for allocation to a school district, as defined in Section 41302.5, or to a community college district regardless of whether the appropriation is made for any purpose that may be considered to be for the benefit to a school district, as defined in Section 41302.5, or a community college district. This paragraph shall not be construed to exclude any funding appropriated for the Child Care and Development Services Act pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(2) Any appropriation made to the Teachers’ Retirement Fund or to the Public Employees’ Retirement Fund except those appropriations for reimbursable state mandates imposed on or before January 1, 1988.

(3) Any appropriation made to service any public debt approved by the voters of this state.

(g) “Allocated local proceeds of taxes,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for school districts as defined, those local revenues, except revenues identified pursuant to paragraph (5) of subdivision (h) of Section 42238, that are used to offset state aid for school districts in calculations performed

pursuant to Sections 2558, 42238, and Chapter 7.2 (commencing with Section 56836) of Part 30.

(h) “Allocated local proceeds of taxes,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for community college districts, those local revenues that are used to offset state aid for community college districts in calculations performed pursuant to Section 84700. In no event shall the revenues or receipts derived from student fees be considered “allocated local proceeds of taxes.”

(i) For the purposes of calculating the 4 percent entitlement pursuant to subdivision (a) of Section 8.5 of Article XVI of the California Constitution, “the total amount required pursuant to Section 8(b)” shall mean the General Fund aid required for schools pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, and shall not include allocated local proceeds of taxes.

(j) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

SEC. 13. Section 41202 is added to the Education Code, to read:

41202. The words and phrases set forth in subdivision (b) of Section 8 of Article XVI of the Constitution of the State of California shall have the following meanings:

(a) “Moneys to be applied by the State,” as used in subdivision (b) of Section 8 of Article XVI of the California Constitution, means appropriations from the General Fund that are made for allocation to school districts, as defined, or community college districts. An appropriation that is withheld, impounded, or made without provisions for its allocation to school districts or community college districts, shall not be considered to be “moneys to be applied by the State.”

(b) “General Fund revenues which may be appropriated pursuant to Article XIII B,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI, means General Fund revenues that are the proceeds of taxes as defined by subdivision (c) of Section 8 of Article XIII B of the California Constitution, including, for the 1986–87 fiscal year only, any revenues that are determined to be in excess of the appropriations limit established pursuant to Article XIII B for the fiscal year in which they are received. General Fund

revenues for a fiscal year to which paragraph (1) of subdivision (b) is being applied shall include, in that computation, only General Fund revenues for that fiscal year that are the proceeds of taxes, as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, and shall not include prior fiscal year revenues. Commencing with the 1995–96 fiscal year, and each fiscal year thereafter, “General Fund revenues that are the proceeds of taxes,” as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, includes any portion of the proceeds of taxes received from the state sales tax that are transferred to the counties pursuant to, and only if, legislation is enacted during the 1995–96 fiscal year the purpose of which is to realign children’s programs. The amount of the proceeds of taxes shall be computed for any fiscal year in a manner consistent with the manner in which the amount of the proceeds of taxes was computed by the Department of Finance for purposes of the Governor’s Budget for the Budget Act of 1986.

(c) “General Fund revenues appropriated for school districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, regardless of whether those appropriations were made from the General Fund to the Superintendent, to the Controller, or to any other fund or state agency for the purpose of allocation to school districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of subdivision (b) of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(d) “General Fund revenues appropriated for community college districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to community college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of

subdivision (b) of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(e) “Total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, and community college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Superintendent, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to school districts and community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(f) “General Fund revenues appropriated for school districts and community college districts, respectively” and “moneys to be applied by the state for the support of school districts and community college districts,” as used in Section 8 of Article XVI of the California Constitution, shall include funds appropriated for part-day California state preschool programs under Article 7 (commencing with Section 8235) of Chapter 2 of Part 6 of Division 1 of Title 1, and the After School Education and Safety Program established pursuant to Article 22.5 (commencing with Section 8482) of Chapter 2 of Part 6 of Division 1 of Title 1, and shall not include any of the following:

(1) Any appropriation that is not made for allocation to a school district, as defined in Section 41302.5, or to a community college district, regardless of whether the appropriation is made for any purpose that may be considered to be for the benefit to a school district, as defined in Section 41302.5, or a community college district. This paragraph shall not be construed to exclude any funding appropriated for part-day California state preschool programs under Article 7 (commencing with Section 8235) of

Chapter 2 of Part 6 of Division 1 of Title 1 or the After School Education and Safety Program established pursuant to Article 22.5 (commencing with Section 8482) of Chapter 2 of Part 6 of Division 1 of Title 1.

(2) Any appropriation made to the Teachers' Retirement Fund or to the Public Employees' Retirement Fund except those appropriations for reimbursable state mandates imposed on or before January 1, 1988.

(3) Any appropriation made to service any public debt approved by the voters of this state.

(4) With the exception of the programs identified in paragraph (1), commencing with the 2011–12 fiscal year, any funds appropriated for the Child Care and Development Services Act, pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1.

(g) "Allocated local proceeds of taxes," as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for school districts as defined, those local revenues, except revenues identified pursuant to paragraph (5) of subdivision (h) of Section 42238, that are used to offset state aid for school districts in calculations performed pursuant to Sections 2558, 42238, and Chapter 7.2 (commencing with Section 56836) of Part 30.

(h) "Allocated local proceeds of taxes," as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for community college districts, those local revenues that are used to offset state aid for community college districts in calculations performed pursuant to Section 84700. In no event shall the revenues or receipts derived from student fees be considered "allocated local proceeds of taxes."

(i) For purposes of calculating the 4-percent entitlement pursuant to subdivision (a) of Section 8.5 of Article XVI of the California Constitution, "the total amount required pursuant to Section 8(b)" shall mean the General Fund aid required for schools pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, and shall not include allocated local proceeds of taxes.

(j) This section shall become operative on July 1, 2011.

SEC. 14. Section 41202.5 is added to the Education Code, to read:

41202.5. (a) The finds and declares as follows:

(1) The Legislature acted to implement Proposition 98 soon after its passage by defining “total allocations to school districts and community college districts from General Fund proceeds of taxes” to include the entirety of programs funded under the Child Care and Development Services Act (Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1).

(2) In *California Teachers Assn. v. Hayes* (1992) 5 Cal.App.4th 1513, the Court of Appeal permitted the inclusion of child care within the Proposition 98 minimum funding guarantee but left open the possibility of excluding particular child care programs that did not directly advance and support the educational mission of school districts.

(b) It is the intent of the Legislature to clarify that the part-time state preschool programs and the After School Education and Safety Program fall within the Proposition 98 guarantee and to fund other child care programs less directly associated with school districts from appropriations that do not count toward the Proposition 98 minimum guarantee.

(c) Notwithstanding any other provision of law, for purposes of making the computations required by subdivision (b) of Section 8 of Article XVI of the California Constitution in the 2011–12 fiscal year and each subsequent fiscal year, both of the following apply:

(1) For purposes of paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, the term “General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87” does not include General Fund revenues appropriated for any program within Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1, with the exception of the part-day California state preschool programs set forth in Article 7 (commencing with Section 8235) and the After School Education and Safety Program in Article 22.5 (commencing with Section 8482). The Director of Finance shall adjust accordingly “the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87,” for purposes of applying that percentage in the 2011–12 fiscal year and each subsequent fiscal year in making the calculations required under

paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) General Fund revenues appropriated in the 2010–11 fiscal year or any subsequent fiscal year for any program within Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1, with the exception of the part-day California state preschool programs set forth in Article 7 (commencing with Section 8235) and the After School Education and Safety Program in Article 22.5 (commencing with Section 8482), are not included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B” for purposes of paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 15. Section 41210 is added to the Education Code, to read:

41210. (a) The revenues transferred pursuant to Section 6015.15 and 6201.15 of the Revenue and Taxation Code are not “General Fund revenues” as that term is used in Section 8 of Article XVI of the California Constitution.

(b) This section shall be operative for the 2011–12 fiscal year and subsequent years so long as one or more ballot measures approved before November 17, 2012, authorize the determination in subdivision (a) and provide funding for school districts and community college districts in an amount equal to that which would have been provided if the revenues referenced in subdivision (a) were General Fund revenues for purposes of Section 8 of Article XVI of the California Constitution.

SEC. 16. Section 41211 is added to the Education Code, to read:

41211. The following shall apply if Section 41210 is rendered inoperative because the ballot measure or measures described in subdivision (b) of that section are not approved:

(a) Before December 17, 2012, the Director of Finance, in consultation with the Superintendent, shall determine the amount of funding that would have been provided in the 2011–12 fiscal year to school districts and community college districts if the revenues described in subdivision (a) of Section 41210 were General Fund revenues for purposes of Section 8 of Article XVI of the California Constitution.

(b) For each of the 2012–13 to 2016–17, inclusive, fiscal years, 17.8 percent of the amount determined in subdivision (a) is appropriated from the General Fund to the Superintendent and shall be distributed in the following priority:

(1) To reduce amounts deferred under Section 14041.6.

(2) To repay obligations to school districts and county offices of education under Section 6 of Article XIII B of the California Constitution.

(3) To use for other one-time purposes as provided by statute enacted after the effective date of this section.

(c) For each of the 2012–13 to 2016–17, inclusive, fiscal years, 2.2 percent of the amount determined in subdivision (a) is appropriated from the General Fund to the Chancellor of the California Community Colleges and shall be distributed in the following priority:

(1) To reduce amounts deferred under Section 84321.6.

(2) To repay obligations to community college districts under Section 6 of Article XIII B of the California Constitution.

(3) To use for other one-time purposes as provided by statute enacted after the effective date of this section.

(d) For the 2011–12 fiscal year and subsequent fiscal years, the computations required by Section 8 of Article XVI of the California Constitution shall include the amount determined in subdivision (a).

SEC. 17. Section 42127 of the Education Code is amended to read:

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

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

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

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

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget and supporting data shall be maintained and made available for public review. If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made.

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

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

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

(2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is

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

(d) On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall, at district expense, develop a budget for that school district by September 15 and transmit that budget to the governing board of the school district. The budget prepared by the county superintendent of schools shall be deemed adopted, unless the county superintendent of schools approves any modifications made by the governing board of the school district. The approved budget shall be used as a guide for the district's priorities. The Superintendent shall review and certify the budget approved by the county. If, pursuant to the review conducted pursuant to subdivision (c), the county superintendent of schools determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall conditionally approve or disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations, including, but not limited to, the amounts of any budget adjustments needed before he or she can conditionally approve that budget. The county superintendent of schools may assign a fiscal adviser to assist the

district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than August 20. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

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

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

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

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

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

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

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

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

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

(3) Not later than October 8, after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent has the authority and responsibility provided to a budget review committee in Section 42127.3. Upon approving a waiver of the budget review committee,

the department shall ensure that a balanced budget is adopted for the school district by November 30. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any district, including a district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, and the date the adopted budget is anticipated. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

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

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

SEC. 18. 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 7.844 percent deficit factor.

(6) For the 2009–10 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 18.355 percent deficit factor.

(7) For the 2010–11 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 17.963 percent deficit factor.

(8) For the 2011–12 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 19.754 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 subdivision (a).

(c) In computing the revenue limit for each school district for the 2010–11 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 2009–10 fiscal year without being reduced by the deficit factors specified in subdivision (a).

(d) In computing the revenue limit for each school district for the 2011–12 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 2010–11 fiscal year without being reduced by the deficit factors specified in subdivision (a).

(e) In computing the revenue limit for each school district for the 2012–13 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 2011–12 fiscal year without being reduced by the deficit factors specified in subdivision (a).

SEC. 19. Section 42251 is added to the Education Code, to read:

42251. (a) The Superintendent shall make the following calculations for the 2011–12 fiscal year:

(1) Determine the amount of funds that will be restricted after the Superintendent makes the deduction pursuant to Section

52335.3 for each county office of education pursuant to subdivision (e) of Section 2558 as of June 30, 2012.

(2) Divide fifty million dollars (\$50,000,000) by the statewide sum of the amounts determined pursuant to paragraph (1). If the fraction is greater than one it shall be deemed to be one.

(3) Multiply the fraction determined pursuant to paragraph (2) by the amount determined pursuant to paragraph (1) for each county office of education.

(b) The auditor-controller of each county shall distribute the amounts determined in paragraph (3) of subdivision (a)

to the Supplemental Revenue Augmentation Fund created within the county pursuant to Section 100.06 of the Revenue and Taxation Code. The aggregate amount of transfers required by this subdivision shall be made in two equal shares, with the first share being transferred no later than January 15, 2012, and the second share being transferred after that date but no later than May 1, 2012.

(c) The moneys transferred to the Supplemental Revenue Augmentation Fund in the 2011–12 fiscal year shall be transferred by the county office of education to the Controller, in amounts and for those purposes as directed by the Director of Finance, exclusively to reimburse the state for the costs of providing trial court services and costs until those moneys are exhausted.

SEC. 20. Section 42606 of the Education Code is repealed.

SEC. 21. Section 42606 is added to the Education Code, to read:

42606. (a) To the extent funds are provided, for the 2010–11 to the 2014–15 fiscal years, inclusive, the Superintendent shall allocate a supplemental categorical block grant to a charter school that began operation during or after the 2008–09 fiscal year. These supplemental categorical block grant funds may be used for any educational purpose. Commencing in the 2011–12 fiscal year, a locally or direct funded charter school that converted from a preexisting school between the 2008–09 and 2014–15 fiscal years, inclusive, is not eligible for funding specified in this section. A charter school that receives funding pursuant to this subdivision shall not receive additional funding for programs specified in paragraph (2) of subdivision (a) of Section 42605, with the exception of the program funded pursuant to Item 6110-211-0001 of Section 2.00 of the annual Budget Act.

(b) (1) For the 2010–11 fiscal year, the supplemental categorical block grant shall equal one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the 2010–11 second principal apportionment for charter schools commencing operations during or after the 2008–09 fiscal year. A locally funded charter school that converted from a preexisting school during or after the 2008-09 fiscal year is not eligible for funding specified in this section.

(2) For the 2011–12 to the 2014–15 fiscal years, inclusive, the supplemental categorical block grant shall equal one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the current year second principal apportionment for charter schools commencing operations during or after the 2008–09 fiscal year. In lieu of this supplemental grant, a school district shall provide new conversion charter schools that commenced operations within the district during or after the 2008–09 fiscal year, one hundred twenty-seven dollars (\$127) per unit of charter school average daily attendance as determined at the current year second principal apportionment. This paragraph does not preclude a school district and a new conversion charter school from negotiating an alternative funding rate. Absent agreement from both parties on an alternative rate, the school district shall be obligated to provide funding at the one hundred twenty-seven dollars (\$127) per average daily attendance rate.

SEC. 22. Section 44955.5 of the Education Code is amended to read:

44955.5. (a) During the time period between five days after the enactment of the Budget Act and August 15 of the fiscal year to which that Budget Act applies, if the governing board of a school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2 percent, and if in the opinion of the governing board it is therefore necessary to decrease the number of permanent employees in the district, the governing board may terminate the services of any permanent or probationary certificated employees of the district, including employees holding a position that requires an administrative or supervisory credential. The termination shall be pursuant to Sections 44951 and 44955 but, notwithstanding anything to the contrary in Sections 44951 and

44955, in accordance with a schedule of notice and hearing adopted by the governing board.

(b) This section is inoperative from July 1, 2002, to July 1, 2003, inclusive, and from July 1, 2011, to July 1, 2012, inclusive.

SEC. 23. Section 46201.3 is added to the Education Code, to read:

46201.3. (a) For the 2011–12 school year, the minimum number of instructional days and minutes school districts, county offices of education, and charter schools are required to offer as set forth in Sections 41420, 46200, 46200.5, 46201, 46201.5, 46202, and 47612.5 shall be reduced by up to seven days.

(b) Implementation of the reduction in the number of instructional days offered by a school district, county office of education, and charter school that is subject to collective bargaining pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code shall be achieved through the bargaining process, provided that the agreement has been completed and reductions implemented no later than June 30, 2012.

(c) The revenue limit for each school district, county office of education, and charter school determined pursuant to Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1, Article 2 (commencing with Section 42238) of Chapter 7 of Part 24 of Division 3, and Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 of Division 4 shall be reduced by the product of 4 percent and the fraction determined pursuant to paragraph (2).

(1) Subtract the revenue forecast determined pursuant to subdivision (a) of Section 3.94 of the Budget Act of 2011 from eighty-six billion four hundred fifty-two million five hundred thousand dollars (\$86,452,500,000).

(2) Divide the lesser of two billion dollars (\$2,000,000,000) or the amount calculated in paragraph (1) by two billion dollars (\$2,000,000,000).

(d) This section does not affect the number of instructional days or instructional minutes that may be reduced pursuant to Section 46201.2.

(e) The revenue limit reductions authorized by this section, when combined with the reductions applied under subdivision (c) of Section 3.94 of the Budget Act of 2011, may not be applied so

as to reduce school funding below the requirements of Section 8 of Article XVI of the California Constitution based on the applicable revenues estimated by the Department of Finance pursuant to Section 3.94 of the Budget Act of 2011.

(f) This section shall be operative on February 1, 2012, only for the 2011–12 school year and only if subdivision (c) of Section 3.94 of the Budget Act of 2011 is operative.

SEC. 24. Section 56139 of the Education Code is amended to read:

56139. (a) The Superintendent is responsible for monitoring local educational agencies to ensure compliance with the requirement to provide mental health services to individuals with exceptional needs pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and to ensure that funds provided for this purpose are appropriately utilized.

(b) The Superintendent shall submit a report to the Legislature by April 1, 2005, that includes all of the following:

(1) A description of the data that is currently collected by the department related to pupils served and services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) A description of the existing monitoring processes used by the department to ensure that local educational agencies are complying with Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, including the monitoring performed to ensure the appropriate use of funds for programs identified in Section 64000.

(3) Recommendations on the manner in which to strengthen and improve monitoring by the department of the compliance by a local educational agency with the requirements of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, on the manner in which to strengthen and improve collaboration and coordination with the State Department of Mental Health in monitoring and data collection activities, and on the additional data needed related to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(c) The Superintendent shall collaborate with the Director of Mental Health in preparing the report required pursuant to

subdivision (b) and shall convene at least one meeting of appropriate stakeholders and organizations, including a representative from the State Department of Mental Health and mental health directors, to obtain input on existing data collection and monitoring processes, and on ways to strengthen and improve the data collected and monitoring performed.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 25. Section 56325 of the Education Code is amended to read:

56325. (a) (1) As required by subclause (I) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from district to district within the state. In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

(2) In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new

individualized education program that is consistent with federal and state law.

(3) As required by subclause (II) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from an educational agency located outside the State of California to a district within California. In the case of an individual with exceptional needs who transfers from district to district within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, until the local educational agency conducts an assessment pursuant to paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code, if determined to be necessary by the local educational agency, and develops a new individualized education program, if appropriate, that is consistent with federal and state law.

(b) (1) To facilitate the transition for an individual with exceptional needs described in subdivision (a), the new school in which the individual with exceptional needs enrolls shall take reasonable steps to promptly obtain the pupil's records, including the individualized education program and supporting documents and any other records relating to the provision of special education and related services to the pupil, from the previous school in which the pupil was enrolled, pursuant to paragraph (2) of subsection (a) of Section 99.31 of Title 34 of the Code of Federal Regulations.

(2) The previous school in which the individual with exceptional needs was enrolled shall take reasonable steps to promptly respond to the request from the new school.

(c) If whenever a pupil described in subdivision (a) was placed and residing in a residential nonpublic, nonsectarian school, prior to transferring to a district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential nonpublic, nonsectarian school placement is responsible for the funding of the placement, including related services, for the remainder of the

school year. An extended year session is included in the school year in which the session ends.

SEC. 26. Section 56331 of the Education Code is amended to read:

56331. (a) A pupil who is suspected of needing mental health services may be referred to a community mental health service in accordance with Section 7576 of the Government Code.

(b) Prior to referring a pupil to a county mental health agency for services, the local educational agency shall follow the procedures set forth in Section 56320 and conduct an assessment in accordance with Sections 300.301 to 300.306, inclusive, of Title 34 of the Code of Federal Regulations. If an individual with exceptional needs is identified as potentially requiring mental health services, the local educational agency shall request the participation of the county mental health agency in the individualized education program. A local educational agency shall provide any specially designed instruction required by an individualized education program, including related services such as counseling services, parent counseling and training, psychological services, or social work services in schools as defined in Section 300.34 of Title 34 of the Code of Federal Regulations. If the individualized education program of an individual with exceptional needs includes a functional behavioral assessment and behavior intervention plan, in accordance with Section 300.530 of Title 34 of the Code of Federal Regulations, the local educational agency shall provide documentation upon referral to a county mental health agency. Local educational agencies shall provide related services, by qualified personnel, unless the individualized education program team designates a more appropriate agency for the provision of services. Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service agency in determining the need for mental health services and the level of services needed.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 27. Section 60422.3 of the Education Code is amended and renumbered to read:

60049. (a) Notwithstanding subdivision (i) of Section 60200, Section 60422, or any other provision of law, for the 2008–09 to the 2014–15 fiscal years, inclusive, the governing board of a school district is not required to provide pupils with instructional materials by a specified period of time following adoption of those materials by the state board.

(b) Notwithstanding subdivision (a), this section does not relieve school districts of their obligations to provide every pupil with textbooks or instructional materials, as provided in Section 1240.3.

(c) This section does not relieve school districts of the obligation to hold a public hearing or hearings pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (a) of Section 60119.

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

SEC. 28. Section 69432.7 of the Education Code is amended to read:

69432.7. As used in this chapter, the following terms have the following meanings:

(a) An “academic year” is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

(b) “Access costs” means living expenses and expenses for transportation, supplies, and books.

(c) “Award year” means one academic year, or the equivalent, of attendance at a qualifying institution.

(d) “College grade point average” and “community college grade point average” mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree.

(e) “Commission” means the Student Aid Commission.

(f) “Enrollment status” means part- or full-time status.

(1) “Part time,” for purposes of Cal Grant eligibility, means 6 to 11 semester units, inclusive, or the equivalent.

(2) “Full time,” for purposes of Cal Grant eligibility, means 12 or more semester units or the equivalent.

(g) “Expected family contribution,” with respect to an applicant, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(h) “High school grade point average” means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses, and computed pursuant to regulations of the commission. However, for high school graduates who apply after their senior year, “high school grade point average” includes senior year coursework.

(i) “Instructional program of not less than one academic year” means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(j) “Instructional program of not less than two academic years” means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(k) “Maximum household income and asset levels” means the applicable household income and household asset levels for participants, including new applicants and renewing recipients, in the Cal Grant Program, as defined and adopted in regulations by the commission for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

| | |
|---|-------------|
| Cal Grant A, C, and T | Cal Grant B |
| Dependent and Independent students with dependents* | |

| | | |
|-----------------------|----------|----------|
| Family Size | | |
| Six or more | \$74,100 | \$40,700 |
| Five | \$68,700 | \$37,700 |
| Four | \$64,100 | \$33,700 |
| Three | \$59,000 | \$30,300 |
| Two | \$57,600 | \$26,900 |
| Independent | | |
| Single, no dependents | \$23,500 | \$23,500 |
| Married | \$26,900 | \$26,900 |

*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

| | Cal Grant A, C, and T | Cal Grant B |
|-------------|--------------------------|-------------|
| Dependent** | \$49,600 | \$49,600 |
| Independent | \$23,600 | \$23,600 |

**Applies to independent students with dependents other than a spouse.

The commission shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution. The maximum household income and asset levels applicable to a renewing recipient shall be the greater of the adjusted maximum household income and asset levels or the maximum household income and asset levels at the time of the renewing recipient's initial Cal Grant award. For a recipient who was initially awarded a Cal Grant for an academic year before the 2011–12 academic year, the maximum household income and asset levels shall be the greater of the adjusted maximum household income and asset levels or the 2010–11 academic year maximum household income and asset levels. An applicant or renewal recipient who qualifies

to be considered under the simplified needs test established by federal law for student assistance shall be presumed to meet the asset level test under this section. Prior to disbursing any Cal Grant funds, a qualifying institution shall be obligated, under the terms of its institutional participation agreement with the commission, to resolve any conflicts that may exist in the data the institution possesses relating to that individual.

(l) (1) “Qualifying institution” means an institution that complies with paragraphs (2) and (3) and is any of the following:

(A) A California private or independent postsecondary educational institution that participates in the Pell Grant Program and in at least two of the following federal campus-based student aid programs:

(i) Federal Work-Study.

(ii) Perkins Loan Program.

(iii) Supplemental Educational Opportunity Grant Program.

(B) A nonprofit institution headquartered and operating in California that certifies to the commission that 10 percent of the institution’s operating budget, as demonstrated in an audited financial statement, is expended for purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the commission that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation by the commission in consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the commission to participate in the Cal Grant Program for the 2000–01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(C) A California public postsecondary educational institution.

(2) (A) The institution shall provide information on where to access California license examination passage rates for the most recent available year from graduates of its undergraduate programs leading to employment for which passage of a California licensing examination is required, if that data is electronically available through the Internet Web site of a California licensing or regulatory agency. For purposes of this paragraph, “provide” may exclusively include placement of an Internet Web site address labeled as an access point for the data on the passage rates of recent program graduates on the Internet Web site where enrollment information

is also located, on an Internet Web site that provides centralized admissions information for postsecondary educational systems with multiple campuses, or on applications for enrollment or other program information distributed to prospective students.

(B) The institution shall be responsible for certifying to the commission compliance with the requirements of subparagraph (A).

(3) (A) The commission shall certify by October 1 of each year the institution's latest three-year cohort default rate as most recently reported by the United States Department of Education.

(B) For purposes of the 2011–12 academic year, an otherwise qualifying institution with a 2008 three-year cohort default rate reported by the United States Department of Education as of February 28, 2011, that is equal to or greater than 24.6 percent shall be ineligible for initial and renewal Cal Grant awards at the institution, except as provided in subparagraph (F).

(C) For purposes of the 2012–13 academic year, and every academic year thereafter, an otherwise qualifying institution with a three-year cohort default rate that is equal to or greater than 30 percent, as certified by the commission on October 1, 2011, and every year thereafter, shall be ineligible for initial and renewal Cal Grant awards at the institution, except as provided in subparagraph (F).

(D) (i) An otherwise qualifying institution that becomes ineligible under this paragraph for initial and renewal Cal Grant awards may regain its eligibility for the academic year following an academic year in which it satisfies the requirements established in subparagraph (B) or (C), as applicable.

(ii) If the United States Department of Education corrects or revises an institution's three-year cohort default rate that originally failed to satisfy the requirements established in subparagraph (B) or (C), as applicable, and the correction or revision results in the institution's three-year cohort default rate satisfying those requirements, that institution shall immediately regain its eligibility for the academic year to which the corrected or revised three-year cohort default rate would have been applied.

(E) An otherwise qualifying institution for which no three-year cohort default rate has been reported by the United States Department of Education shall be provisionally eligible to participate in the Cal Grant Program until a three-year cohort

default rate has been reported for the institution by the United States Department of Education.

(F) An institution that is ineligible for initial and renewal Cal Grant awards at the institution under subparagraph (B) or (C) shall be eligible for renewal Cal Grant awards for recipients who were enrolled in the ineligible institution during the academic year before the academic year for which the institution is ineligible and who choose to renew their Cal Grant awards to attend the ineligible institution. Cal Grant awards subject to this subparagraph shall be reduced as follows:

(i) The maximum Cal Grant A and B awards specified in the annual Budget Act shall be reduced by 20 percent.

(ii) The reductions specified in this subparagraph shall not impact access costs as specified in subdivision (b) of Section 69435.

(G) Notwithstanding any other law, the requirements of this paragraph shall not apply to institutions with 40 percent or less of undergraduate students borrowing federal student loans, using information reported to the United States Department of Education for the academic year two years prior to the year in which the commission is certifying the three-year cohort default rate pursuant to subparagraph (A).

(H) By January 1, 2013, the Legislative Analyst shall submit to the Legislature a report on the implementation of this paragraph. The report shall be prepared in consultation with the commission, and shall include policy recommendations for appropriate measures of default risk and other direct or indirect measures of quality or effectiveness in educational institutions participating in the Cal Grant Program, and appropriate scores for those measures. It is the intent of the Legislature that appropriate policy and fiscal committees review the requirements of this paragraph and consider changes thereto.

(m) “Satisfactory academic progress” means those criteria required by applicable federal standards published in Title 34 of the Code of Federal Regulations. The commission may adopt regulations defining “satisfactory academic progress” in a manner that is consistent with those federal standards.

SEC. 29. 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 thirty-six dollars (\$36) per unit per semester, effective with the fall term of the 2011–12 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 84750.5, 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 of Division 5 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.

(o) This section shall be inoperative and is repealed on January 1, 2012, only if Section 3.94 of the Budget Act of 2011 is operative.

SEC. 30. Section 76300 is added to the Education Code, 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 forty-six dollars (\$46) per unit per semester, effective with the fall term of the 2011–12 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 84750.5, 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 of Division 5 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 30 years of age.

(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.

(o) This section shall become operative on January 1, 2012, only if Section 3.94 of the Budget Act of 2011 is operative.

SEC. 31. Section 7911.1 of the Family Code is amended to read:

7911.1. (a) Notwithstanding any other law, the State Department of Social Services or its designee shall investigate any threat to the health and safety of children placed by a California county social services agency or probation department in an out-of-state group home pursuant to the provisions of the Interstate Compact on the Placement of Children. This authority shall include the authority to interview children or staff in private or review

their file at the out-of-state facility or wherever the child or files may be at the time of the investigation. Notwithstanding any other law, the State Department of Social Services or its designee shall require certified out-of-state group homes to comply with the reporting requirements applicable to group homes licensed in California pursuant to Title 22 of the California Code of Regulations for each child in care regardless of whether he or she is a California placement, by submitting a copy of the required reports to the Compact Administrator within regulatory timeframes. The Compact Administrator within one business day of receiving a serious events report shall verbally notify the appropriate placement agencies and within five working days of receiving a written report from the out-of-state group home, forward a copy of the written report to the appropriate placement agencies.

(b) Any contract, memorandum of understanding, or agreement entered into pursuant to paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children regarding the placement of a child out of state by a California county social services agency or probation department shall include the language set forth in subdivision (a).

(c) The State Department of Social Services or its designee shall perform initial and continuing inspection of out-of-state group homes in order to either certify that the out-of-state group home meets all licensure standards required of group homes operated in California or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety. Any failure by an out-of-state group home facility to make children or staff available as required by subdivision (a) for a private interview or make files available for review shall be grounds to deny or discontinue the certification. The State Department of Social Services shall grant or deny an initial certification or a waiver under this subdivision to an out-of-state group home facility that has more than six California children placed by a county social services agency or probation department by August 19, 1999. The department shall grant or deny an initial certification or a waiver under this subdivision to an out-of-state group home facility that has six or fewer California children placed by a county social services agency or probation department by February 19, 2000. Certifications made pursuant to this subdivision shall be reviewed annually.

(d) Within six months of the effective date of this section, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team for each child in an out-of-state group home facility. On or after March 1, 1999, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home facility.

(e) Any failure by an out-of-state group home to obtain or maintain its certification as required by subdivision (c) shall preclude the use of any public funds, whether county, state, or federal, in the payment for the placement of any child in that out-of-state group home, pursuant to the Interstate Compact on the Placement of Children.

(f) (1) A multidisciplinary team shall consist of participating members from county social services, county mental health, county probation, county superintendents of schools, and other members as determined by the county.

(2) Participants shall have knowledge or experience in the prevention, identification, and treatment of child abuse and neglect cases, and shall be qualified to recommend a broad range of services related to child abuse or neglect.

(g) (1) The department may deny, suspend, or discontinue the certification of the out-of-state group home if the department makes a finding that the group home is not operating in compliance with the requirements of subdivision (c).

(2) Any judicial proceeding to contest the department's determination as to the status of the out-of-state group home certificate shall be held in California pursuant to Section 1085 of the Code of Civil Procedure.

(h) The certification requirements of this section shall not impact placements of emotionally disturbed children made pursuant to an individualized education program developed pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) if the placement is not funded with federal or state foster care funds.

(i) Only an out-of-state group home authorized by the Compact Administrator to receive state funds for the placement by a county social services agency or probation department of any child in that out-of-state group home from the effective date of this section

shall be eligible for public funds pending the department's certification under this section.

SEC. 32. Section 7572 of the Government Code is amended to read:

7572. (a) A child shall be assessed in all areas related to the suspected disability by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of occupational therapy and physical therapy. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code.

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services in consultation with the State Department of Education.

(c) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the service in order for the child to benefit from special education. In no case shall the inclusion of necessary related services in a pupil's individualized education plan be contingent upon identifying the funding source. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision (b) of Section 56329 of the Education Code, which shall be considered by the individualized education program team.

(1) If an assessment has been conducted pursuant to subdivision (b), the recommendation of the person who conducted the assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. When the proposed recommendation of the person has been discussed with the parent and there is disagreement on the recommendation pertaining to the related service, the parent shall

be notified in writing and may require the person who conducted the assessment to attend the individualized education program team meeting to discuss the recommendation. The person who conducted the assessment shall attend the individualized education program team meeting if requested. Following this discussion and review, the recommendation of the person who conducted the assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local educational agency.

(2) If an independent assessment for the provision of related services or designated instruction and services is submitted to the individualized education program team, review of that assessment shall be conducted by the person specified in subdivision (b). The recommendation of the person who reviewed the independent assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. The parent shall be notified in writing and may request the person who reviewed the independent assessment to attend the individualized education program team meeting to discuss the recommendation. The person who reviewed the independent assessment shall attend the individualized education program team meeting if requested. Following this review and discussion, the recommendation of the person who reviewed the independent assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local agency.

(3) Any disputes between the parent and team members representing the public agencies regarding a recommendation made in accordance with paragraphs (1) and (2) shall be resolved pursuant to Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of Title 2 of the Education Code.

(d) Whenever a related service or designated instruction and service specified in subdivision (b) is to be considered for inclusion in the child's individualized educational program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized

education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (c). Conference calls, together with written recommendations, are acceptable forms of participation. If the responsible public agency representative will not be available to participate in the individualized education program meeting, the local educational agency shall ensure that a qualified substitute is available to explain and interpret the evaluation pursuant to subdivision (d) of Section 56341 of the Education Code. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

SEC. 33. Section 7572.5 of the Government Code is amended to read:

7572.5. (a) If an assessment is conducted pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.8 of Title 34 of the Code of Federal Regulations, and any member of the individualized education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include a representative of the county mental health department.

(b) The expanded individualized education program team shall review the assessment and determine whether:

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care is necessary for the child to benefit from educational services.

(3) Residential services are available that address the needs identified in the assessment and that will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program that calls for residential placement, the individualized education program shall include all of the items outlined in Section 56345 of the Education Code, and shall also include:

(1) Designation of the county mental health department as lead case manager. Lead case management responsibility may be

delegated to the county welfare department by agreement between the county welfare department and the designated county mental health department. The county mental health department shall retain financial responsibility for the provision of case management services.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Identification of an appropriate residential facility for placement with the assistance of the county welfare department as necessary.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 34. Section 7572.55 of the Government Code is amended to read:

7572.55. (a) Residential placements for a child with a disability who is seriously emotionally disturbed may be made out-of-state only after in-state alternatives have been considered and are found not to meet the child's needs and only when the requirements of Section 7572.5, and subdivision (e) of Section 56365 of the Education Code have been met. The local education agency shall document the alternatives to out-of-state residential placement that were considered and the reasons why they were rejected.

(b) Out-of-state placements shall be made only in a privately operated school certified by the California Department of Education.

(c) A plan shall be developed for using less restrictive alternatives and in-state alternatives as soon as they become available, unless it is in the best educational interest of the child to remain in the out-of-state school. If the child is a ward or dependent of the court, this plan shall be documented in the record.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 35. Section 7576 of the Government Code is amended to read:

7576. (a) The State Department of Mental Health, or a community mental health service, as described in Section 5602 of the Welfare and Institutions Code, designated by the State Department of Mental Health, is responsible for the provision of mental health services, as defined in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education, if required in the individualized education program of a pupil. A local educational agency is not required to place a pupil in a more restrictive educational environment in order for the pupil to receive the mental health services specified in his or her individualized education program if the mental health services can be appropriately provided in a less restrictive setting. It is the intent of the Legislature that the local educational agency and the community mental health service vigorously attempt to develop a mutually satisfactory placement that is acceptable to the parent and addresses the educational and mental health treatment needs of the pupil in a manner that is cost effective for both public agencies, subject to the requirements of state and federal special education law, including the requirement that the placement be appropriate and in the least restrictive environment. For purposes of this section, “parent” is as defined in Section 56028 of the Education Code.

(b) A local educational agency, individualized education program team, or parent may initiate a referral for assessment of the social and emotional status of a pupil, pursuant to Section 56320 of the Education Code. Based on the results of assessments completed pursuant to Section 56320 of the Education Code, an individualized education program team may refer a pupil who has been determined to be an individual with exceptional needs, as defined in Section 56026 of the Education Code, and who is suspected of needing mental health services to a community mental health service if the pupil meets all of the criteria in paragraphs (1) to (5), inclusive. Referral packages shall include all documentation required in subdivision (c), and shall be provided immediately to the community mental health service.

(1) The pupil has been assessed by school personnel in accordance with Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code.

Local educational agencies and community mental health services shall work collaboratively to ensure that assessments performed prior to referral are as useful as possible to the community mental health service in determining the need for mental health services and the level of services needed.

(2) The local educational agency has obtained written parental consent for the referral of the pupil to the community mental health service, for the release and exchange of all relevant information between the local educational agency and the community mental health service, and for the observation of the pupil by mental health professionals in an educational setting.

(3) The pupil has emotional or behavioral characteristics that satisfy all of the following:

(A) Are observed by qualified educational staff in educational and other settings, as appropriate.

(B) Impede the pupil from benefiting from educational services.

(C) Are significant as indicated by their rate of occurrence and intensity.

(D) Are associated with a condition that cannot be described solely as a social maladjustment or a temporary adjustment problem, and cannot be resolved with short-term counseling.

(4) As determined using educational assessments, the pupil's functioning, including cognitive functioning, is at a level sufficient to enable the pupil to benefit from mental health services.

(5) The local educational agency, pursuant to Section 56331 of the Education Code, has provided appropriate counseling and guidance services, psychological services, parent counseling and training, or social work services to the pupil pursuant to Section 56363 of the Education Code, or behavioral intervention as specified in Section 56520 of the Education Code, as specified in the individualized education program and the individualized education program team has determined that the services do not meet the educational needs of the pupil, or, in cases where these services are clearly inadequate or inappropriate to meet the educational needs of the pupil, the individualized education program team has documented which of these services were considered and why they were determined to be inadequate or inappropriate.

(c) If referring a pupil to a community mental health service in accordance with subdivision (b), the local educational agency or

the individualized education program team shall provide the following documentation:

(1) Copies of the current individualized education program, all current assessment reports completed by school personnel in all areas of suspected disabilities pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, and other relevant information, including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria set forth in paragraphs (3) and (4) of subdivision (b).

(4) A description of the counseling, psychological, and guidance services, and other interventions that have been provided to the pupil, as provided in the individualized education program of the pupil, including the initiation, duration, and frequency of these services, or an explanation of the reasons a service was considered for the pupil and determined to be inadequate or inappropriate to meet his or her educational needs.

(d) Based on preliminary results of assessments performed pursuant to Section 56320 of the Education Code, a local educational agency may refer a pupil who has been determined to be, or is suspected of being, an individual with exceptional needs, and is suspected of needing mental health services, to a community mental health service if a pupil meets the criteria in paragraphs (1) and (2). Referral packages shall include all documentation required in subdivision (e) and shall be provided immediately to the community mental health service.

(1) The pupil meets the criteria in paragraphs (2) to (4), inclusive, of subdivision (b).

(2) Counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(e) If referring a pupil to a community mental health service in accordance with subdivision (d), the local educational agency shall provide the following documentation:

(1) Results of preliminary assessments to the extent they are available and other relevant information including reports completed by other agencies.

(2) A copy of the parent's consent obtained as provided in paragraph (2) of subdivision (b).

(3) A summary of the emotional or behavioral characteristics of the pupil, including documentation that the pupil meets the criteria in paragraphs (3) and (4) of subdivision (b).

(4) Documentation that appropriate related educational and designated instruction and services have been provided in accordance with Sections 300.34 and 300.39 of Title 34 of the Code of Federal Regulations.

(5) An explanation of the reasons that counseling and guidance services, psychological services, parent counseling and training, social work services, and behavioral or other interventions as provided in the individualized education program of the pupil are clearly inadequate or inappropriate in meeting his or her educational needs.

(f) The procedures set forth in this chapter are not designed for use in responding to psychiatric emergencies or other situations requiring immediate response. In these situations, a parent may seek services from other public programs or private providers, as appropriate. This subdivision does not change the identification and referral responsibilities imposed on local educational agencies under Article 1 (commencing with Section 56300) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code.

(g) Referrals shall be made to the community mental health service in the county in which the pupil lives. If the pupil has been placed into residential care from another county, the community mental health service receiving the referral shall forward the referral immediately to the community mental health service of the county of origin, which shall have fiscal and programmatic responsibility for providing or arranging for the provision of necessary services. The procedures described in this subdivision shall not delay or impede the referral and assessment process.

(h) A county mental health agency does not have fiscal or legal responsibility for costs it incurs prior to the approval of an individualized education program, except for costs associated with conducting a mental health assessment.

(i) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 36. Section 7576.2 of the Government Code is amended to read:

7576.2. (a) The Director of the State Department of Mental Health is responsible for monitoring county mental health agencies to ensure compliance with the requirement to provide mental health services to disabled pupils pursuant to this chapter and to ensure that funds provided for this purpose are appropriately utilized.

(b) The Director of the State Department of Mental Health shall submit a report to the Legislature by April 1, 2005, that includes the following:

(1) A description of the data that is currently collected by the State Department of Mental Health related to pupils served and services provided pursuant to this chapter.

(2) A description of the existing monitoring process used by the State Department of Mental Health to ensure that county mental health agencies are complying with this chapter.

(3) Recommendations on the manner in which to strengthen and improve monitoring by the State Department of Mental Health of the compliance by a county mental health agency with the requirements of this chapter, on the manner in which to strengthen and improve collaboration and coordination with the State Department of Education in monitoring and data collection activities, and on the additional data needed related to this chapter.

(c) The Director of the State Department of Mental Health shall collaborate with the Superintendent of Public Instruction in preparing the report required pursuant to subdivision (b) and shall convene at least one meeting of appropriate stakeholders and organizations, including a representative from the State Department of Education, to obtain input on existing data collection and monitoring processes, and on ways to strengthen and improve the data collected and monitoring performed.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Section 7576.3 of the Government Code is amended to read:

7576.3. (a) It is the intent of the Legislature that the Director of the State Department of Mental Health collaborate with an entity with expertise in children's mental health to collect, analyze, and disseminate best practices for delivering mental health services to disabled pupils. The best practices may include, but are not limited to:

(1) Interagency agreements in urban, suburban, and rural areas that result in clear identification of responsibilities between local educational agencies and county mental health agencies and result in efficient and effective delivery of services to pupils.

(2) Procedures for developing and amending individualized education programs that include mental health services that provide flexibility to educational and mental health agencies and protect the interests of children in obtaining needed mental health needs.

(3) Procedures for creating ongoing communication between the classroom teacher of the pupil and the mental health professional who is directing the mental health program for the pupil.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 7576.5 of the Government Code is amended to read:

7576.5. (a) If funds are appropriated to local educational agencies to support the costs of providing services pursuant to this chapter, the local educational agencies shall transfer those funds to the community mental health services that provide services pursuant to this chapter in order to reduce the local costs of providing these services. These funds shall be used exclusively for programs operated under this chapter and are offsetting revenues in any reimbursable mandate claim relating to special education programs and services.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 39. Section 7582 of the Government Code is amended to read:

7582. Assessments and therapy treatment services provided under programs of the State Department of Health Care Services, or its designated local agencies, rendered to a child referred by a local education agency for an assessment or a disabled child or youth with an individualized education program, shall be exempt from financial eligibility standards and family repayment requirements for these services when rendered pursuant to this chapter.

SEC. 40. Section 7585 of the Government Code is amended to read:

7585. (a) Whenever a department or local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575, and specified in the pupil's individualized education program, the parent, adult pupil, if applicable, or a local educational agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of California Health and Human Services.

(b) When either the Superintendent or the secretary receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The Superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local educational agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the Superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the Superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the director,

or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local educational agency, either party may appeal to the director, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service. The Superintendent and the secretary shall ensure that funds are available for the provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) This section does not prevent a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

SEC. 41. Section 7586.5 of the Government Code is amended to read:

7586.5. (a) Not later than January 1, 1988, the Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency jointly shall submit to the Legislature and the Governor a report on the implementation of this chapter. The report shall include, but not be limited to, information regarding the number of complaints and due process hearings resulting from this chapter.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 7586.6 of the Government Code is amended to read:

7586.6. (a) The Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency shall ensure that the State Department of Education and the State Department of Mental Health enter into an interagency agreement by January

1, 1998. It is the intent of the Legislature that the agreement include, but not be limited to, procedures for ongoing joint training, technical assistance for state and local personnel responsible for implementing this chapter, protocols for monitoring service delivery, and a system for compiling data on program operations.

(b) It is the intent of the Legislature that the designated local agencies of the State Department of Education and the State Department of Mental Health update their interagency agreements for services specified in this chapter at the earliest possible time. It is the intent of the Legislature that the state and local interagency agreements be updated at least every three years or earlier as necessary.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 43. Section 7586.7 of the Government Code is amended to read:

7586.7. (a) The Superintendent of Public Instruction and the Secretary of the Health and Human Services Agency jointly shall prepare and implement within existing resources a plan for in-service training of state and local personnel responsible for implementing the provisions of this chapter.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 44. Section 7588 of the Government Code is repealed.

SEC. 45. Section 12440.1 of the Government Code is amended to read:

12440.1. (a) The trustees, in conjunction with the Controller, shall implement a process that allows any campus or other unit of the university to make payments of obligations of the university from its revolving fund directly to all of its vendors. Notwithstanding Article 5 (commencing with Section 16400) of Chapter 2 of Part 2 of Division 4 of Title 2, or any other law, the trustees may draw from funds appropriated to the university, for use as a revolving fund, amounts necessary to make payments of obligations of the university directly to vendors. In any fiscal year, the trustees shall obtain the approval of the Director of Finance to

draw amounts in excess of 10 percent of the total appropriation to the university for that fiscal year for use as a revolving fund.

(b) Notwithstanding Sections 925.6, 12410, and 16403, or any other law, the trustees shall maintain payment records for three years and make those records available to the Controller for postaudit review, as needed.

(c) (1) Notwithstanding Section 8546.4 or any other law, the trustees shall contract with one or more public accounting firms to conduct a systemwide annual financial statement audit in accordance with generally accepted accounting principles (GAAP), as well as other required compliance audits without obtaining the approval of any other state officer or entity.

(2) The statement of net assets, statement of revenues, expenses, changes in net assets, and statement of cashflows of each campus shall be included as an addendum to the annual systemwide audit. Summary information on transactions with auxiliary organizations for each campus shall also be included in the addendum. Any additional information necessary shall be provided upon request.

(d) The internal and independent financial statement audits of the trustees shall test compliance with procurement procedures and the integrity of the payments made. The results of these audits shall be included in the biennial report required by Section 13405.

(e) As used in this section:

(1) “Trustees” means the Trustees of the California State University.

(2) “University” means the California State University.

SEC. 46. Section 17581.5 of the Government Code is amended to read:

17581.5. (a) A school district or community college district shall not be required to implement or give effect to the statutes, or a portion of the statutes, identified in subdivision (c) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or a portion of the statute, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of school districts or community college districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or a portion of the statute, or the test claim number utilized by the commission, specifically has been identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered specifically to have been identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it specifically is identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Within 30 days after enactment of the Budget Act, the Department of Finance shall notify school districts of any statute or executive order, or portion thereof, for which reimbursement is not provided for the fiscal year pursuant to this section.

(c) This section applies only to the following mandates:

(1) School Bus Safety I (CSM-4433) and II (97-TC-22) (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) County Treasury Withdrawals (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

(3) Grand Jury Proceedings (98-TC-27; and Chapter 1170 of the Statutes of 1996, Chapter 443 of the Statutes of 1997, and Chapter 230 of the Statutes of 1998).

(4) Law Enforcement Sexual Harassment Training (97-TC-07; and Chapter 126 of the Statutes of 1993).

(5) Health Benefits for Survivors of Peace Officers and Firefighters (Chapter 1120 of the Statutes of 1996 and 97-TC-25).

(d) This section applies to the following mandates for the 2010–11, 2011–12, and 2012–13 fiscal years only:

(1) Removal of Chemicals (Chapter 1107 of the Statutes of 1984 and CSM 4211 and 4298).

(2) Scoliosis Screening (Chapter 1347 of the Statutes of 1980 and CSM 4195).

(3) Pupil Residency Verification and Appeals (Chapter 309 of the Statutes of 1995 and 96-384-01).

(4) Integrated Waste Management (Chapter 1116 of the Statutes of 1992 and 00-TC-07).

(5) Law Enforcement Jurisdiction Agreements (Chapter 284 of the Statutes of 1998 and 98-TC-20).

(6) Physical Education Reports (Chapter 640 of the Statutes of 1997 and 98-TC-08).

(7) 98.01.042.390-Sexual Assault Response Procedures (Chapter 423 of the Statutes of 1990 and 99-TC-12).

(8) 98.01.059.389-Student Records (Chapter 593 of the Statutes of 1989 and 02-TC-34).

SEC. 47. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 17608.05.

(2) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(3) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the department.

(4) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(5) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(6) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(7) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(8) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(9) Assurances that the county shall comply with all applicable laws and regulations for all services delivered.

(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Any contractual requirements needed for any program initiatives utilized by the county contained within this part. In addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

SEC. 48. Section 5701.3 of the Welfare and Institutions Code is amended to read:

5701.3. (a) Consistent with the annual Budget Act, this chapter shall not affect the responsibility of the state to fund psychotherapy and other mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and the state shall reimburse counties for all allowable costs incurred by counties in providing services pursuant to that chapter. The reimbursement provided pursuant to this section for purposes of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code shall be provided by the state through an appropriation included in either the annual Budget Act or other statute. Counties shall continue to receive reimbursement from specifically appropriated funds for costs necessarily incurred in providing psychotherapy and other mental health services in accordance with this chapter. For reimbursement claims for services delivered in the 2001–02 fiscal year and thereafter, counties are not required to provide any share of those costs or to fund the cost of any part of these services with money received from the Local Revenue Fund established by Chapter 6 (commencing with Section 17600) of Part 5 of Division 9.

(b) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 49. Section 5701.6 of the Welfare and Institutions Code is amended to read:

5701.6. (a) Counties may utilize money received from the Local Revenue Fund established by Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 to fund the costs of any part of those services provided pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. If money from the Local Revenue Fund is used by counties for those services, counties are eligible for reimbursement from the state for all allowable costs to fund assessments, psychotherapy, and other mental health services allowable pursuant to Section 300.24 of Title 34 of the Code of Federal Regulations and required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(b) This section is declaratory of existing law.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 50. Section 11323.2 of the Welfare and Institutions Code is amended to read:

11323.2. (a) Necessary supportive services shall be available to every participant in order to participate in the program activity to which he or she is assigned or to accept employment or the participant shall have good cause for not participating under subdivision (f) of Section 11320.3. As provided in the welfare-to-work plan entered into between the county and participant pursuant to this article, supportive services shall include all of the following:

(1) Child care.

(A) Paid child care shall be available to every participant with a dependent child in the assistance unit who needs paid child care if the child is 10 years of age or under, or requires child care or supervision due to a physical, mental, or developmental disability or other similar condition as verified by the county welfare department, or who is under court supervision.

(B) To the extent funds are available paid child care shall be available to a participant with a dependent child in the assistance unit who needs paid child care if the child is 11 or 12 years of age.

(C) Necessary child care services shall be available to every former recipient for up to two years, pursuant to Article 15.5

(commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code.

(D) A child in foster care receiving benefits under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) or a child who would become a dependent child except for the receipt of federal Supplemental Security Income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) shall be deemed to be a dependent child for the purposes of this paragraph.

(E) The provision of care and payment rates under this paragraph shall be governed by Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code. Parent fees shall be governed by subdivisions (g) and (h) of Section 8263 of the Education Code.

(2) Transportation costs, which shall be governed by regional market rates as determined in accordance with regulations established by the department.

(3) Ancillary expenses, which shall include the cost of books, tools, clothing specifically required for the job, fees, and other necessary costs.

(4) Personal counseling. A participant who has personal or family problems that would affect the outcome of the welfare-to-work plan entered into pursuant to this article shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job or training assignment.

(b) If provided in a county plan, the county may continue to provide case management and supportive services under this section to former participants who become employed. The county may provide these services for up to the first 12 months of employment to the extent they are not available from other sources and are needed for the individual to retain the employment.

SEC. 51. Section 18356.1 is added to the Welfare and Institutions Code, to read:

18356.1. This chapter shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 52. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services or the State Department of Education may implement Section 4, Sections 7 to 11, inclusive, and Section 50 of this act, through all-county letters, management bulletins, or other similar instructions.

SEC. 53. Notwithstanding any other law, the implementation of Section 4, Sections 7 to 11, inclusive, and Section 50 of this act is not subject to the appeal and resolution procedures for agencies that contract with the State Department of Education for the provision of child care services or the due process requirements afforded to families that are denied services specified in Chapter 19 (commencing with Section 18000) of Division 1 of Title 5 of the California Code of Regulations.

SEC. 54. It is the intent of the Legislature that funding provided in provisions 18 and 26 of Item 6110-161-0001 and provision 9 of Item 6110-161-0890 of Section 2.00 of the Budget Act of 2011 for educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) shall be exclusively available for these services only for the 2011–12 and 2012–13 fiscal years.

SEC. 55. (a) It is the intent of the Legislature that the State Department of Education and the appropriate departments within the California Health and Human Services Agency modify or repeal regulations that are no longer supported by statute due to the amendments in Sections 24 to 26, inclusive, Section 32 to 44, inclusive, Sections 47 to 49, inclusive, and Section 51 of this act.

(b) The State Department of Education and the appropriate departments within the California Health and Human Services Agency shall review regulations to ensure the appropriate implementation of educationally related mental health services required by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and Sections 24 to 26, inclusive, Section 32 to 44, inclusive, Sections 47 to 49, inclusive, and Section 51 of this act.

(c) The State Department of Education and the appropriate departments within the California Health and Human Services Agency may adopt regulations to implement Sections 24 to 26,

inclusive, Section 32 to 44, inclusive, Sections 47 to 49, inclusive, and Section 51 of this act. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Education and the appropriate departments within the California Health and Human Services Agency are hereby exempted, for this purpose, from the requirements of subdivision (b) of Section 11346.1 of the Government Code. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 180-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to one year.

SEC. 56. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 57. There is hereby appropriated one thousand dollars (\$1,000) from the General Fund to the State Department of Education for purposes of funding the award grants pursuant to Section 49550.3 of the Education Code to school districts, county superintendents of schools, or entities approved by the department for nonrecurring expenses incurred in initiating or expanding a school breakfast program or a summer food service program.

SEC. 58. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2011

Governor