

## Senate Bill No. 436

### CHAPTER 386

An act to amend Sections 5225, 5229, 11800, 16150, 16151, 16157, 16160, 16236, 17070.75, 17088.2, 17463, 17582, 17592.5, 35709, 41360, 42623, 49073.1, 56155.5, 56325, 56366, 56366.3, 56441.5, and 60900 of, and to repeal Sections 17591, 48200.7, 48200.8, 52171.6, 52184, and 54006 of, the Education Code, relating to education.

[Approved by Governor September 30, 2015. Filed with  
Secretary of State September 30, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 436, Committee on Education. Education: omnibus bill.

(1) Existing law establishes the K–12 High-Speed Network, as specified, for the purpose of enriching pupil educational experiences and improving pupil academic performance by providing high-speed, high-bandwidth Internet connectivity to the public schools. Existing law requires the Superintendent of Public Instruction to use a competitive grant process to select a local educational agency to serve as the Lead Education Agency to administer the network on behalf of the Superintendent. Existing law requires the Superintendent to establish a K–12 HSN advisory board to include the Superintendent, the county superintendent of schools of the Lead Education Agency, the President of the State Board of Education, and other officers of local educational agencies, including 3 schoolsite representatives, as specified.

This bill would specify that the schoolsite representatives appointed to the advisory board under this provision would serve renewable 2-year terms.

(2) Existing law authorizes the State Allocation Board to allocate any amount of the funds designated for purposes of school housing aid for school districts impacted by seasonal agricultural employment that is in excess of the amounts needed for administration to any of specified funds, including the State School Deferred Maintenance Fund, as provided. Existing law separately authorizes the board to transfer any funds within the State School Building Aid Fund that are in excess of the amounts needed by the board for the maintenance of portable buildings or for the purchase of new portable buildings, for that fiscal year, to any of specified funds, including the State School Deferred Maintenance Fund, as provided.

This bill would delete those allocation authorizations to the State School Deferred Maintenance Fund.

(3) Existing law authorizes the governing board of a school district to establish a restricted fund known as the “district deferred maintenance fund” for certain school facilities purposes, including, among others, any other items of maintenance approved by the State Allocation Board.

This bill would remove that purpose from the list of specifically authorized purposes, but would no longer limit the use of the fund to the list of specifically authorized purposes.

(4) Existing law requires the State Department of Education, and authorizes the Compton Unified School District, to identify low-performing schools in the school district, as provided, for purposes of providing extended school year instruction. Former law, repealed by its own provisions on January 1, 2003, authorized the Compton Unified School District to receive funding for extended year classes at those low-performing schools in the school district, as provided. Existing law requires the department, in conjunction with the Legislative Analyst, to contract for 2 independent evaluations, as provided, to determine the effectiveness of the extended school year curriculum, instructional program, and materials in improving pupil academic outcomes at those low-performing schools in the Compton Unified School District. Existing law requires the results of the evaluations to be reported on or before January 1, 2002, and January 1, 2003, respectively, to specified persons.

This bill would delete those obsolete provisions.

(5) Existing law, the Chacon-Moscone Bilingual-Bicultural Education Act of 1976, which ceased to be operative on June 30, 1987, required, among other things, that the Superintendent of Public Instruction report annually to the Legislature on bilingual education programs, as specified. The act also required the State Department of Education to prepare and submit to the Legislature an annual report regarding the number of participants in the State Bilingual Teacher Training Assistance Program and other topics related to that program.

This bill would delete those reporting requirements.

(6) Existing law establishes programs to provide state aid to public schools where pupil performance is affected by factors such as low family income, high pupil transiency rates, and large numbers of homes where a primary language other than English is spoken. Existing law requires the Superintendent of Public Instruction to submit annually to the Governor and to each house of the Legislature a report evaluating these programs and containing information related to specified topics.

This bill would delete the requirement for this annual report.

(7) This bill would also update references, delete other obsolete provisions, make conforming changes, and make other nonsubstantive changes.

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

SECTION 1. Section 5225 of the Education Code is amended to read:  
5225. Notwithstanding Section 5033, when a unified school district is formed pursuant to Chapter 4 (commencing with Section 35700) of Part 21 of Division 3 of Title 2, which includes a city school district having a city board of education as provided under Section 5224, the unified school

district shall be governed by said city board of education and the governing board members thereof shall continue in office for the remainder of their terms as elected pursuant to Section 5224.

SEC. 2. Section 5229 of the Education Code is amended to read:

5229. (a) (1) If a unified school district governed by a board of education of five members includes a chartered city, the charter of which provides for a board of education, the members of which are to be elected pursuant to this code and to hold office for the terms provided by this code, and three members of that board of education were elected to hold office for a term expiring during the school year commencing on the date the district was formed for all purposes, the office of three members of the board of education shall be filled at the first election of governing board members following the date of formation for all purposes.

(2) The term of office of the three members elected pursuant to paragraph (1) shall be determined by lot. The term of one member shall expire on the first Friday in December of the first succeeding odd-numbered year following his or her election; and the terms of two members shall expire on the first Friday in December of the second succeeding odd-numbered year following their election. The persons elected to succeed the three members shall hold office for four years.

(b) In a unified school district formed pursuant to Chapter 4 (commencing with Section 35700) of Part 21 of Division 3 of Title 2, which includes a chartered city, the governing board of the school district shall be the board of education of such city or city and county, provided that all qualified electors residing within the unified school district are eligible to vote at all elections held for the election of members of the city board of education and any elector residing in the district, or in a trustee area if the district is divided into trustee areas, is eligible to serve as a member of that board.

(c) In the event a unified district includes a chartered city, the governing board of the unified school district shall consist of either five or seven members, and shall be elected at large or by trustee areas, as designated by the unification proposal, and any elector residing in the district, or in a trustee area if the district is divided into trustee areas, is eligible to serve as a member of the board. The first governing board of any such unified school district shall be elected in the manner prescribed by Section 35101, except where the charter of the included chartered city expressly provides for the election of the first governing board of a newly formed unified school district, in which case those provisions of the charter shall control the election of the governing board.

SEC. 3. Section 11800 of the Education Code is amended to read:

11800. (a) (1) The K–12 High-Speed Network (K–12 HSN) is hereby established for the purpose of enriching pupil educational experiences and improving pupil academic performance by providing high-speed, high-bandwidth Internet connectivity to the public school system, as defined by Section 6 of Article IX of the California Constitution.

(2) The California Education Network is hereby established, consisting of the California Research and Education Network (CalREN) and the K–12 HSN.

(b) The Superintendent shall measure the success of the K–12 HSN and ensure that the benefits of the K–12 HSN are maximized to the extent possible. The K–12 HSN shall provide critical services and functions for public primary and secondary local educational agencies, including, but not limited to, all of the following:

(1) Reliable and cost-effective Internet service.

(2) Reliable and secure interconnectivity among public school entities offering kindergarten or any of grades 1 to 12, inclusive, in California, connection to higher education institutions of California, and connection to state and local agencies to facilitate efficient interaction, including transmission of data.

(3) Videoconferencing and related distance learning capabilities.

(4) Statewide coordination of network uses to benefit teaching and learning.

(c) The Superintendent shall use a competitive grant process to select a local educational agency to serve as the Lead Education Agency to administer the K–12 HSN on behalf of the Superintendent.

(d) The Superintendent shall establish a K–12 HSN advisory board to be composed of all of the following members:

(1) The Superintendent, or his or her designee.

(2) The county superintendent of schools of the Lead Education Agency.

(3) A county superintendent of schools of a county with an average daily attendance of more than 60,000 pupils, appointed by the Superintendent. The member appointed pursuant to this paragraph shall serve a renewable two-year term.

(4) Three school district superintendents, appointed by the Superintendent. Members appointed pursuant to this paragraph shall represent school districts that are diverse as to geography and size, and that serve socioeconomically and culturally diverse pupil populations. Members appointed pursuant to this paragraph shall serve renewable two-year terms.

(5) Two county superintendents of schools appointed by the majority of the votes of all of the county superintendents of schools. Members appointed pursuant to this paragraph shall serve renewable two-year terms.

(6) Three schoolsite representatives, who shall include not less than two classroom teachers or instructional specialists. Members appointed pursuant to this paragraph shall serve renewable two-year terms.

(7) The president of the state board or his or her designee.

(e) The advisory board shall meet quarterly and shall recommend policy direction and broad operational guidance to the Superintendent and the Lead Education Agency. The advisory board, in consultation with the Lead Education Agency, shall develop recommendations for measuring the success of the network, improving network oversight and monitoring, strengthening accountability, and optimizing the use of the K–12 HSN and its ability to improve education. The advisory board shall report its recommendations

to the Legislature, the Governor, the Department of Finance, the president of the state board or his or her designee, and the Legislative Analyst's Office by March 1, 2007. It is the intent of the Legislature that the report identify and recommend specific annual performance measures that should be established to assess the effectiveness of the network.

(f) The duties of the Lead Education Agency shall include all of the following:

(1) Entering into appropriate contracts for the provision of high-speed, high-bandwidth Internet connectivity, provided such contracts secure the necessary terms and conditions to adequately protect the interests of the state. Terms and conditions shall include, but are not limited to, all of the following:

(A) Development of comprehensive service level agreements.

(B) Protection of any ownership rights of intellectual property of the state that result due to participation of the state in the K-12 HSN.

(C) Appropriate protection of assets of the state acquired due to its participation in the K-12 HSN.

(D) Assurance that appropriate fee structures are in place.

(E) Assurance that any interest earned on funds of the state for this purpose are used solely to the benefit of the project.

(2) Development of an annual budget request for the K-12 HSN for submission to the department and the Department of Finance to be included in the annual Budget Act.

(3) Development, in consultation with the advisory board established pursuant to subdivision (d), of specific goals and objectives for the program with appropriate reporting of success measures developed by the Superintendent pursuant to subdivision (b).

(4) Ongoing fiscal oversight of the program, including mechanisms to control statewide costs and exposure. To accomplish this objective, the Lead Education Agency shall contract for an annual independent audit of the program. The independent auditor shall report the audit findings to the Superintendent, the Legislature, and the Governor by December 15 of each year.

(5) Ongoing technical oversight of the program, including external evaluation and independent validation, where appropriate. To accomplish this objective, the Lead Education Agency shall contract for an independent evaluation to be completed and provided to the Superintendent by March 1, 2009. The Superintendent shall report the results of the evaluation, including a response and recommendations to correct any adverse findings from the evaluation, to the Governor and the Legislature by April 30, 2009.

(6) (A) The Lead Education Agency shall administer grant programs to promote the most cost-effective manner for the completion of connectivity for all public schools of the state and cost-effective applications that meet instructional needs to the extent that funds are provided for these purposes in the annual Budget Act.

(B) Before the appropriation of any state funds for the purposes of this paragraph, the Lead Education Agency shall submit information justifying

the need for additional grant funds, including, but not limited to, all of the following:

- (i) The number of schools and school districts that are already connected.
- (ii) The means by which the costs associated with connectivity were covered for schools and school districts that are already connected.
- (iii) Obstacles to connection for those schools and school districts that are not yet connected.
- (iv) Other local options and funding sources for purposes of connectivity and applications.

SEC. 4. Section 16150 of the Education Code is amended to read:

16150. (a) As used in this article:

- (1) “Acquiring district” means a district in which all or a part of a state-aided district or an applicant district has been included.
- (2) “Original district” means a state-aided or applicant district included in whole or in part in an acquiring district.
- (3) “State-aided district” means a district to which a conditional or final apportionment has been made under this chapter.

(b) For purposes of this article as it applies to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be:

- (1) For granting conditional apportionments: the date the action became effective for purposes of Sections 35532 and 35533.
- (2) For making conditional apportionments final: the date the action became effective for purposes of Sections 35532 and 35533.

(c) For purposes of this article as it applies to an original district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization in which the original district is included in whole or in part in an acquiring district shall be:

- (1) For granting conditional apportionments: the date the action becomes effective for all purposes as specified in Section 35534.
- (2) For making conditional apportionments final: the date the action became effective for all purposes as specified in Section 35534.
- (3) No conditional apportionment may be made to any original district affected by any reorganization after the date that action became effective for purposes of Sections 35532 and 35533 except upon an application that has the approval of the governing board of the acquiring district.

SEC. 5. Section 16151 of the Education Code is amended to read:

16151. On the date an acquiring district becomes effective for all purposes, as specified in Section 35534, the authority to accept a state loan voted by an original district pursuant to this chapter whose boundaries are coterminous with the boundaries of the acquiring district shall become authority of the acquiring district to accept a state loan. However, when the proceeds of bonds authorized and sold by the acquiring district are applied toward the reduction of apportionments made to an original district that is included in whole in the acquiring district pursuant to Section 16058, the amount of bond proceeds shall be excluded in determining the amount

chargeable against any apportionment authorized to be accepted by the electorate of the original or acquiring district.

SEC. 6. Section 16157 of the Education Code is amended to read:

16157. If, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to the apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. All amounts that would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 35534, become liable for the annual repayments and other payments due the state under Section 16075 and other provisions of this chapter with respect to the apportionment or the property acquired or to be acquired therewith.

SEC. 7. Section 16160 of the Education Code is amended to read:

16160. Notwithstanding Sections 16159 and 16161, in situations where an applicant district at the elementary grade level under this chapter is divided into three parts, each of which is included in a newly formed unified school district, each part shall be excluded in determining the state loan repayment liability for any apportionment made to the original district subsequent to the date the unification is effective for purposes of Section 35532, provided that all of the following occur:

(a) The assessed valuation of the part is less than 4 percent of the original district in the fiscal year immediately preceding the fiscal year the change is made effective for all purposes.

(b) The average daily attendance in the part is excluded in determining projected enrollment of the original district for additional state aid during the period after the change is effective for purposes of Section 35532 and before the effective date for all purposes.

(c) The part contains no sites, plans, or school facilities, which were acquired under this chapter or under Chapter 4 (commencing with Section 15700).

SEC. 8. Section 16236 of the Education Code is amended to read:

16236. Notwithstanding any other law, the board may allocate any amount of the funds designated for purposes of this article that is in excess of the amounts needed for the administration of this article to any of the following:

(a) The Emergency School Classroom Fund for allocation by the board for any purpose authorized pursuant to that fund.

(b) The 1998 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(c) The 2002 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(d) The 2004 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

(e) If the voters approve the Kindergarten-University Public Education Facilities Bond Act of 2006 at the November 7, 2006, statewide general election, the 2006 State School Facilities Fund for allocation by the board for any purpose authorized to that fund.

SEC. 9. Section 17070.75 of the Education Code is amended to read:

17070.75. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times maintained in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following before the approval of a project:

(1) Establish a restricted account within the general fund of the school district for the exclusive purpose of providing moneys for ongoing and major maintenance of school buildings, according the highest priority to funding for the purposes set forth in subdivision (a). Funds in the account may be used for drought mitigation purposes related to the implementation of Executive Order B-29-15.

(2) (A) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for 20 years after receipt of funds under this chapter, a minimum amount equal to or greater than 3 percent of the total general fund expenditures of the applicant school district, including other financing uses, for that fiscal year.

(B) Notwithstanding subparagraph (A), for the 2015–16 and 2016–17 fiscal years, the minimum amount required to be deposited into the account established pursuant to paragraph (1) shall be the lesser of the following amounts:

(i) Three percent of the total general fund expenditures for that fiscal year.

(ii) The amount that the school district deposited into the account in the 2014–15 fiscal year.

(C) Notwithstanding subparagraph (A), for the 2017–18 to 2019–20 fiscal years, inclusive, the minimum amount required to be deposited into the account established pursuant to paragraph (1) shall be the greater of the following amounts:

(i) The lesser of 3 percent of the general fund expenditures for that fiscal year or the amount that the school district deposited into the account in the 2014–15 fiscal year.

(ii) Two percent of the total general fund expenditures of the applicant school district for that fiscal year.

(D) A school district contribution to the account may be provided in lieu of meeting the ongoing maintenance requirements pursuant to Section 17014

to the extent the funds are used for purposes established in that section. A school district that serves as the administrative unit for a special education local plan area may elect to exclude from its total general fund expenditures, for purposes of this paragraph, the distribution of revenues that are passed through to participating members of the special education local plan area.

(E) This paragraph applies only to the following school districts:

(i) High school districts with an average daily attendance greater than 300 pupils.

(ii) Elementary school districts with an average daily attendance greater than 900 pupils.

(iii) Unified school districts with an average daily attendance greater than 1,200 pupils.

(F) It is the intent of the Legislature that a school district shall be required to comply with the requirements of subparagraph (A) in the year in which the local control funding formula is fully implemented.

(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the school district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year may not be counted toward the annual minimum contribution by the school district.

(c) A school district to which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.

(d) For purposes of calculating a county office of education requirement pursuant to this section, the applicable maintenance requirement specified in paragraph (2) of subdivision (b) shall be based upon the county office of education general fund less any restricted accounts.

(e) (1) This subdivision shall only apply to a school district that received funds pursuant to this chapter equal to or greater than 10 percent of the State School Facilities Funds of 1998, 2002, 2004, and 2006.

(2) Notwithstanding subparagraphs (B) and (C) of paragraph (2) of subdivision (b), a school district shall comply with the requirements of subparagraph (A) of paragraph (2) of subdivision (b) if the amount available in any fiscal year for the public school system pursuant to Section 8 of Article XVI of the California Constitution is equal to or greater than the amount available in the prior fiscal year, unless a school district has locally negotiated an alternative minimum annual deposit percentage in a collective bargaining agreement with the representatives of the school district's skilled crafts employees.

(3) Under no circumstances shall a school district deposit less than the amounts required in subparagraphs (B) and (C) of paragraph (2) of subdivision (b).

(4) This subdivision shall be operative from July 1, 2015, until June 30, 2020.

(f) As a condition of participation in the school facilities program, for a fiscal year after the 2004–05 fiscal year, a school district shall establish a facilities inspection system to ensure that each of its schools is maintained in good repair.

(g) For purposes of this section, “good repair” has the same meaning as specified in subdivision (d) of Section 17002.

SEC. 10. Section 17088.2 of the Education Code is amended to read:

17088.2. Notwithstanding any other law, the board may transfer any funds within the State School Building Aid Fund that are in excess of the amounts needed by the board for the maintenance of portable buildings or for the purchase of new portable buildings, for that fiscal year, to any of the following, as appropriate:

(a) The 1998 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(b) The 2002 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(c) The 2004 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

SEC. 11. Section 17463 of the Education Code is amended to read:

17463. Notwithstanding Section 17462, a school district having an average daily attendance of less than 10,001 in any fiscal year may deposit any and all interest earned on the funds derived from the sale in that fiscal year of surplus property into the general fund of the school district for any general fund purpose, subject to the following conditions:

(a) Before that deposit, the school district shall submit to the State Allocation Board a capital outlay plan for the school district for a period of five years following that sale, together with a declaration of the finding by the governing board of the school district that the school facilities needs of the school district can be met over that five-year period without funding or other assistance from any state school facilities funding program. No later than the date upon which that initial five-year period concludes, the school district shall submit to the State Allocation Board a capital outlay plan for the school district for the subsequent five-year period.

(b) Before the decision to place that interest money into the school district’s general fund, the governing board of the school district shall consider the extent to which it is necessary or appropriate to expend that money to meet the school district’s needs relative to capital outlay, facilities, modernization, and deferred maintenance. In addition, as to any interest money deposited into the school district’s general fund pursuant to this section, the governing board of the school district shall consider the extent to which it is necessary or appropriate to expend the money to meet the school district’s needs relative to ongoing maintenance before expending that money for any other purpose.

(c) A school district that deposits interest into its general fund pursuant to the authority set forth in this section shall not be eligible during the 10-year period described in subdivision (a) for funding or other assistance under Chapter 12 (commencing with Section 17000) or Chapter 14

(commencing with Section 17085) of Part 10, or any other state school facilities funding program.

(d) If a school district seeks state funding pursuant to Chapter 12 (commencing with Section 17000) of Part 10, Chapter 14 (commencing with Section 17085) of Part 10, or any other state school facilities funding program, on or after the expiration of the 10-year period specified in subdivision (c), any state funding received by the school district from the program shall be reduced by any remaining funds derived from the sale of that surplus property by the school district and any unencumbered interest earned on those funds.

SEC. 12. Section 17582 of the Education Code is amended to read:

17582. (a) The governing board of a school district may establish a restricted fund to be known as the “district deferred maintenance fund” for purposes including, but not limited to, major repair or replacement of plumbing, heating, air-conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings; the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials; the encapsulation or removal of asbestos-containing materials; the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials; and the control, management, and removal of lead-containing materials. Funds deposited in the district deferred maintenance fund may be received from any source and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section. The term “school building” as used in this article includes a facility that a county office of education is authorized to use pursuant to Article 3 (commencing with Section 17280) of Chapter 3.

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

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

SEC. 13. Section 17591 of the Education Code is repealed.

SEC. 14. Section 17592.5 of the Education Code is amended to read:

17592.5. The Southern California Regional Occupational Center and the Metropolitan Education District, each of which is a joint powers authority, shall be deemed to be school districts for purposes of Sections 17582, 17589, and 17590.

SEC. 15. Section 35709 of the Education Code is amended to read:

35709. If the following conditions are met, the county committee may approve the petition and order that the petition be granted, and shall so notify the county board of supervisors:

(a) The county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 are substantially met, and:

(b) Either:

(1) The petition is to transfer uninhabited territory from one district to another and the owner of the territory, or a majority of the owners of the territory, and the governing boards of all school districts involved in the transfer consent to the transfer; or

(2) The petition is to transfer inhabited territory of less than 10 percent of the assessed valuation of the district from which the territory is being transferred, and the governing board of each school district involved in the transfer consent to the transfer.

SEC. 16. Section 41360 of the Education Code is amended to read:

41360. (a) Loans may be made from moneys in the Public School District Organization Revolving Fund to newly organized elementary, high school, or unified school districts upon application of the governing board of any such school district, certified by the county superintendent of schools and approved by the Superintendent for use by the school district during the period from the date the action to form the school district was completed and the date the school district becomes effective for all purposes. Money loaned to a school district pursuant to this section shall be used only to meet one or more of the following:

(1) The expenses of office rental, office supplies, postage, telephone, and telegraphing.

(2) The expenses of necessary elections required by law or authorized by Section 35532.

(3) The expenses of employing, the salary of, and necessary travel expenses of officers and necessary clerical help for the governing board of the school district.

(b) During each of the two successive fiscal years commencing with the first fiscal year of the existence of the school district for all purposes, the State Controller shall deduct from apportionments made to that school district an amount equal to one-half of the amount loaned to that school district under this section and pay the same amount into the Public School District Organization Revolving Fund in the State Treasury.

SEC. 17. Section 42623 of the Education Code is amended to read:

42623. (a) Upon the request of the county board of education on behalf of a newly organized school district, and upon the order of the county board of supervisors of the county or city and county, the auditor and treasurer of the county or city and county shall make a temporary transfer from any funds of the county or city and county not immediately needed to pay claims against them to the general fund of the newly organized school district for the purpose of meeting the current expense of the school district until the school district receives its first state apportionments or school district tax funds. Upon the making of the transfer, the auditor shall immediately notify the superintendent of schools of the county or the city and county of the amount transferred.

(b) The funds transferred under this section to the general fund of a newly organized school district shall be retransferred by the auditor and the treasurer to the fund from which they were taken from the first moneys accruing to the school district after it becomes effective for all purposes

pursuant to Section 35534 and before any other obligation of the school district is paid from the money accruing.

SEC. 18. Section 48200.7 of the Education Code is repealed.

SEC. 19. Section 48200.8 of the Education Code is repealed.

SEC. 20. Section 49073.1 of the Education Code is amended to read:

49073.1. (a) A local educational agency may, pursuant to a policy adopted by its governing board or, in the case of a charter school, its governing body, enter into a contract with a third party for either or both of the following purposes:

(1) To provide services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

(2) To provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use pupil records in accordance with the contractual provisions listed in subdivision (b).

(b) A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following:

(1) A statement that pupil records continue to be the property of and under the control of the local educational agency.

(2) Notwithstanding paragraph (1), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account.

(3) A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract.

(4) A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information.

(5) A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement shall not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.

(6) A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil's records.

(7) (A) A certification that a pupil's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced.

(B) The requirements provided in subparagraph (A) shall not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to paragraph (2).

(8) A description of how the local educational agency and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

(9) A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

(c) In addition to any other penalties, a contract that fails to comply with the requirements of this section shall be rendered void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the contract. All parties subject to a contract voided under this subdivision shall return all pupil records in their possession to the local educational agency.

(d) For purposes of this section, the following terms have the following meanings:

(1) “Deidentified information” means information that cannot be used to identify an individual pupil.

(2) “Eligible pupil” means a pupil who has reached 18 years of age.

(3) “Local educational agency” includes school districts, county offices of education, and charter schools.

(4) “Pupil-generated content” means materials created by a pupil, including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content. “Pupil-generated content” does not include pupil responses to a standardized assessment where pupil possession and control would jeopardize the validity and reliability of that assessment.

(5) (A) “Pupil records” means both of the following:

(i) Any information directly related to a pupil that is maintained by the local educational agency.

(ii) Any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational agency employee.

(B) “Pupil records” does not mean any of the following:

(i) Deidentified information, including aggregated deidentified information, used by the third party to improve educational products, for adaptive learning purposes, and for customizing pupil learning.

(ii) Deidentified information, including aggregated deidentified information, used to demonstrate the effectiveness of the operator’s products in the marketing of those products.

(iii) Deidentified information, including aggregated deidentified information, used for the development and improvement of educational sites, services, or applications.

(6) “Third party” refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

(e) If the provisions of this section are in conflict with the terms of a contract in effect before January 1, 2015, the provisions of this section shall not apply to the local educational agency or the third party subject to that agreement until the expiration, amendment, or renewal of the agreement.

(f) Nothing in this section shall be construed to impose liability on a third party for content provided by any other third party.

SEC. 21. Section 52171.6 of the Education Code is repealed.

SEC. 22. Section 52184 of the Education Code is repealed.

SEC. 23. Section 54006 of the Education Code is repealed.

SEC. 24. Section 56155.5 of the Education Code is amended to read:

56155.5. (a) As used in this article, “licensed children’s institution” means a residential facility that is licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. “Licensed children’s institution” includes a group home as defined by subdivision (g) of Section 80001 of Title 22 of the California Code of Regulations. As used in this article and Article 3 (commencing with Section 56836.165) of Chapter 7.2, a “licensed children’s institution” does not include any of the following:

(1) A juvenile court school, juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp administered pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27.

(2) A county community school program provided pursuant to Section 1981.

(3) Any special education programs provided pursuant to Section 56150.

(4) Any other public agency.

(b) As used in this article, “foster family home” means a family residence that is licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not necessarily limited to, individuals with exceptional needs. “Foster family home” includes a small family home as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

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 56836.165, 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 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the nonpublic, nonsectarian school or agency and the local educational agency to provide the special education and designated instruction and services, as well as transportation specified in each pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by each pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a local educational agency that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the local educational agency to oversee and evaluate placements in nonpublic, nonsectarian schools, as required by federal law. This description shall include a method for evaluating whether each pupil is making appropriate educational progress. At least once every year, the local educational agency shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an individualized education program:

(i) Evaluate the educational progress of each pupil placed in a nonpublic, nonsectarian school, including all state assessment results pursuant to the requirements of Section 52052.

(ii) Consider whether or not the needs of the pupil continue to be best met at the nonpublic, nonsectarian school and whether changes to the individualized education program of the pupil are necessary, including whether the pupil may be transitioned to a public school setting. This consideration shall be made at the meeting required by subdivision (d) of Section 56343.

(C) In the case of a nonpublic, nonsectarian school that is owned, operated by, or associated with a licensed children's institution, the master contract shall include a method for evaluating whether the nonpublic, nonsectarian school is in compliance with the mandate set forth in Section 56366.9 of this code and subdivision (b) of Section 1501.1 of the Health and Safety Code.

(3) (A) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to a pupil's individualized education program.

(B) At any time during the term of the contract or individual services agreement, the parent, the nonpublic, nonsectarian school or agency, or the local educational agency may request a review of a pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the local educational agency.

(4) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(5) The nonpublic, nonsectarian school or agency shall provide all services specified in an individualized education program, unless the nonpublic, nonsectarian school or agency and the local educational agency agree otherwise in the contract or individual services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of a pupil's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services, as defined by Section 46307, for purposes of submitting a warrant for tuition to each contracting local educational agency.

(8) (A) A nonpublic, nonsectarian school is subject to the alternative accountability system developed pursuant to Section 52052 in the same manner as public schools and each pupil placed in the nonpublic, nonsectarian school by a local educational agency shall be tested by qualified staff of the nonpublic, nonsectarian school in accordance with that accountability program. The test results shall be reported by the nonpublic, nonsectarian school to the department.

(B) Beginning with the 2006–07 school year testing cycle, each nonpublic, nonsectarian school shall determine its California Assessment of Student Performance and Progress period subject to subdivisions (b) and (c) of Section 60640. The nonpublic, nonsectarian school shall determine this period based on completion of 85 percent of the instructional year at that nonpublic, nonsectarian school, plus and minus 10 days, resulting in a 21-day period. Each nonpublic, nonsectarian school shall notify the district of residence of a pupil enrolled in the school of its testing period. Staff at the nonpublic, nonsectarian school who administer the assessments shall attend the regular testing training sessions provided by the district of residence. If staff from a nonpublic, nonsectarian school have received training from one

local educational agency, that training shall be sufficient for all local educational agencies that send pupils to the nonpublic, nonsectarian school. The district of residence shall order testing materials for its pupils that have been placed in the nonpublic, nonsectarian school. The board shall adopt regulations to facilitate the distribution of and collection of testing materials.

(9) With respect to a nonpublic, nonsectarian school, the school shall prepare a school accountability report card in accordance with Section 33126.

(b) (1) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a local educational agency for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

(2) The Superintendent shall withhold 20 percent of the amount apportioned to a local educational agency for costs related to the provision of nonpublic, nonsectarian school or agency placements if the Superintendent finds that the local educational agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the Superintendent's finding of noncompliance. The Superintendent shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If a pupil is enrolled in a nonpublic, nonsectarian school or agency with the approval of the local educational agency prior to agreement to a contract or individual services agreement, the local educational agency shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the master contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent of schools is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the Superintendent, if the county superintendent of schools is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent of schools or the Superintendent, or his or her designee, shall mediate the formulation of a contract, which shall be binding upon both parties.

(d) A master contract for special education and related services provided by a nonpublic, nonsectarian school or agency may not be authorized under this part, unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the nonpublic, nonsectarian school or agency

receiving approval to educate pupils under this part for a period no longer than 18 months from the date of the initial approval.

(e) By September 30, 1998, the procedures, methods, and regulations for the purposes of contracting for nonpublic, nonsectarian school and agency services pursuant to this section and for reimbursement pursuant to Sections 56836.165 and 56836.20 shall be developed by the Superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services. The regulations shall be established by rules and regulations issued by the board.

SEC. 27. Section 56366.3 of the Education Code is amended to read:

56366.3. (a) No contract for special education and related services provided by a nonpublic, nonsectarian agency shall be reimbursed by the state pursuant to Article 4 (commencing with Section 56836.20) of Chapter 7.2 and Section 56836.165 if the contract covers special education and related services, administration, or supervision by an individual who is or was an employee of a contracting local educational agency within the last 365 days. Former contracting agency personnel may be employed by a nonpublic, nonsectarian agency if the personnel were involuntarily terminated or laid off as part of necessary staff reductions from the local educational agency.

(b) This section does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to 10 months of the school year by the local educational agency.

SEC. 28. Section 56441.5 of the Education Code is amended to read:

56441.5. Appropriate instructional adult-to-child ratios for group services shall be dependent on the needs of the child. However, because of the unique needs of individuals with exceptional needs between the ages of three and five years, inclusive, who require special education and related services, the number of children per instructional adult shall be less than ratios set forth in subdivision (c) of Section 8264.8 for young children in a regular preschool program. Group services provided to individuals with exceptional needs between the ages of three and five years, inclusive, identified as severely disabled pursuant to Section 56030.5 shall not exceed an instructional adult-to-child ratio of one to five.

SEC. 29. Section 60900 of the Education Code is amended to read:

60900. (a) The department shall contract for the development of proposals that will provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to Chapter 5 (commencing with Section 60600), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850). The longitudinal data shall be known as the California Longitudinal Pupil Achievement Data System.

(b) The proposals developed pursuant to subdivision (a) shall evaluate and determine whether it would be most effective, from both a fiscal and a technological perspective, for the state to own the system. The proposals

shall additionally evaluate and determine the most effective means of housing the system.

(c) The California Longitudinal Pupil Achievement Data System shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(d) The system or systems developed pursuant to this section shall be used to accomplish all of the following goals:

(1) To provide school districts and the department access to data necessary to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) To provide a better means of evaluating educational progress and investments over time.

(3) To provide local educational agencies information that can be used to improve pupil achievement.

(4) To provide an efficient, flexible, and secure means of maintaining longitudinal statewide pupil level data.

(5) To facilitate the ability of the state to publicly report data, as specified in Section 6401(e)(2)(D) of the federal America COMPETES Act (20 U.S.C. Sec. 9871) and as required by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(6) To ensure that any data access provided to researchers, as required pursuant to the federal Race to the Top regulations and guidelines is provided, only to the extent that the data access is in compliance with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g).

(e) In order to comply with federal law as delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall retain individual pupil records for each test taker, including all of the following:

(1) All demographic data collected from the California Assessment of Student Performance and Progress (CAASPP), high school exit examination, and English language development tests.

(2) Pupil achievement data from assessments administered pursuant to the CAASPP, high school exit examination, and English language development testing programs. To the extent feasible, data should include subscore data within each content area.

(3) A unique pupil identification number to be identical to the pupil identifier developed pursuant to the California School Information Services, which shall be retained by each local educational agency and used to ensure the accuracy of information on the header sheets of the CAASPP tests, high school exit examination, and the English language development test.

(4) All data necessary to compile reports required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), including, but not limited to, dropout and graduation rates.

(5) Other data elements deemed necessary by the Superintendent, with the approval of the state board, to comply with the federal reporting requirements delineated in the federal No Child Left Behind Act of 2001

(20 U.S.C. Sec. 6301 et seq.), and the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), after review and comment by the advisory board convened pursuant to subdivision (h). Before the implementation of this paragraph with respect to adding data elements to the California Longitudinal Pupil Achievement Data System for the purpose of complying with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the department and the appropriate postsecondary educational agencies shall submit an expenditure plan to the Department of Finance detailing any administrative costs to the department and costs to any local educational agency, if applicable. The Department of Finance shall provide to the Joint Legislative Budget Committee a copy of the expenditure plan within 10 days of receipt of the expenditure plan from the department.

(6) To enable the department, the University of California, the California State University, and the Chancellor of the California Community Colleges to meet the requirements prescribed by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), these entities shall be authorized to obtain quarterly wage data, commencing July 1, 2010, on students who have attended their respective systems, to assess the impact of education on the employment and earnings of those students, to conduct the annual analysis of district-level and individual district or postsecondary education system performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.

(f) The California Longitudinal Pupil Achievement Data System shall have all of the following characteristics:

(1) The ability to sort by demographic element collected from the CAASPP tests, high school exit examination, and English language development test.

(2) The capability to be expanded to include pupil achievement data from multiple years.

(3) The capability to monitor pupil achievement on the CAASPP tests, high school exit examination, and English language development test from year to year and school to school.

(4) The capacity to provide data to the state and local educational agencies upon their request.

(g) Data elements and codes included in the system shall comply with Sections 49061 to 49079, inclusive, and Sections 49602 and 56347, with Sections 430 to 438, inclusive, of Title 5 of the California Code of Regulations, with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g), Section 1232h of Title 20 of the United States Code, and related federal regulations.

(h) The department shall convene an advisory board consisting of representatives or designees from the state board, the Department of Finance,

the State Privacy Ombudsman, the Legislative Analyst's Office, representatives of parent groups, school districts, and local educational agencies, and education researchers to establish privacy and access protocols, provide general guidance, and make recommendations relative to data elements. The department is encouraged to seek representation broadly reflective of the general public of California.

(i) Subject to funding being provided in the annual Budget Act, the department shall contract with a consultant for independent project oversight. The Director of Finance shall review the request for proposals for the contract. The consultant hired to conduct the independent project oversight shall twice annually submit a written report to the Superintendent, the state board, the advisory board, the Director of Finance, the Legislative Analyst, and the appropriate policy and fiscal committees of the Legislature. The report shall include an evaluation of the extent to which the California Longitudinal Pupil Achievement Data System is meeting the goals described in subdivision (d) and recommendations to improve the data system in ensuring the privacy of individual pupil information and providing the data needed by the state and school districts.

(j) This section shall be implemented using federal funds received pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), which are appropriated for purposes of this section in Item 6110-113-0890 of Section 2.00 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002). The release of these funds is contingent on approval of an expenditure plan by the Department of Finance.

(k) For purposes of this chapter, a local educational agency shall include a county office of education, a school district, and a charter school.