

1 MARK D. ROSENBAUM (BAR NO. 59940)
CATHERINE E. LHAMON (BAR NO. 192751)
2 PETER J. ELIASBERG (BAR NO. 189110)
ACLU Foundation of Southern California
3 1616 Beverly Boulevard
Los Angeles, California 90026
4 Telephone: (213) 977-9500
5 JACK W. LONDEN (BAR NO. 85776)
MICHAEL A. JACOBS (BAR NO. 111664)
6 MATTHEW I. KREEGER (BAR NO. 153793)
J. GREGORY GROSSMAN (BAR NO. 209628)
7 Morrison & Foerster LLP
425 Market Street
8 San Francisco, California 94105-2482
Telephone: (415) 268-7000
9 ALAN SCHLOSSER (BAR NO. 49957)
ACLU Foundation of Northern California
10 1663 Mission Street, Suite 460
San Francisco, California 94103
11 Telephone: (415) 621-2493
12 JOHN T. AFFELDT (BAR NO. 154430)
JENNY P. PEARLMAN (BAR NO. 224879)
13 Public Advocates, Inc.
131 Steuart Street, Suite 300
14 San Francisco, CA 94105
Telephone: (415) 431-7430
15 Attorneys for Plaintiffs
ELIEZER WILLIAMS, etc., *et al.*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF SAN FRANCISCO

19 ELIEZER WILLIAMS, a minor, by Sweetie
Williams, his guardian ad litem, *et al.*, each
20 individually and on behalf of all others
similarly situated,

21 Plaintiffs,

22 v.

23 STATE OF CALIFORNIA, DELAINE
EASTIN, State Superintendent of Public
Instruction, STATE DEPARTMENT OF
24 EDUCATION, STATE BOARD OF
EDUCATION,

25 Defendants.

No. 312236

**DECLARATION OF JACK W. LONDEN IN
SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF SETTLEMENT**

Hearing: Week of March 14, 2005
Time: 9 a.m.
Department: 210
Judge: Hon. Peter J. Busch
Date Action Filed: May 17, 2000

CLASS ACTION

1 I, JACK W. LONDEN, declare as follows:

2 1. I am a partner in Morrison & Foerster LLP, and a member of the State Bar of California.
3 I make this declaration in support of Plaintiffs' Motion for Approval of Final Settlement

4 **Settlement Process**

5 2. Judge Mahoney held mediation sessions on December 17, 2001, January 3, 2002,
6 January 16, 2002, January 26, 2002, and January 31, 2002. During these sessions, lead counsel for
7 the parties was present and negotiations generally lasted the entire day. When it appeared that
8 progress toward settlement was possible, the parties agreed to stay the litigation.

9 3. On February 1, 2002, the Court ordered a stay of the litigation to allow the parties an
10 opportunity to focus exclusively on mediation. Over the following seven months, the parties
11 continued to participate in mediation sessions with Judge Mahoney. The parties met on:
12 February 22, 2002, March 1, 2002, April 8, 2002, April 17, 2002, May 20, 2002, June 24, 2002,
13 July 12, 2002, August 9, 2002, and August 29, 2002. The parties negotiated vigorously, prepared
14 lengthy submissions to the mediator responding to his questions, and exchanged multiple settlement
15 proposals. The parties also held many discussions regarding settlement among the entire group and
16 among subsets of the group. Ultimately, however, the parties were unable to reach agreement on
17 settlement and decided to return to litigation in October, 2002.

18 4. While litigation continued at a fast pace, the parties agreed to continue mediation
19 discussions with Judge Mahoney in the spring of 2003. Judge Mahoney held mediation sessions with
20 the parties on March 3, 2003, June 2, 2003, June 18, 2003, August 1, 2003, and September 5, 2003.
21 In addition to the in-person meetings, the parties also engaged in extensive telephonic meetings both
22 among the entire group and among subsets of the group whom Judge Mahoney brought together.
23 When Governor Arnold Schwarzenegger was voted into office, the parties postponed pending
24 settlement discussions until the new administration had an opportunity to review the substance and
25 status of the litigation. On November 24, 2003, at the request of the parties, the Court ordered
26 another stay of the litigation again to focus on settlement.

27 5. With the approval of Judge Mahoney, plaintiffs accepted the invitation of the Office of
28 Governor Schwarzenegger to negotiate directly. From the start, the new administration approached

1 settlement discussions as an opportunity to deal with problems in public education. During the
2 discussions, the administration's team included senior officials in the Office of the Governor with
3 regular direct supervision by Governor Schwarzenegger himself.

4 6. In May, the Governor's Legal Affairs Secretary notified counsel for the parties that these
5 discussions had progressed to the point where an agreement to resolve the litigation was possible and
6 within reach. His letter set forth Governor Schwarzenegger's principles of educational reform, which
7 the parties agreed would form the basis for legislative solutions to specific problems facing California
8 schools. Throughout May and June, the parties held settlement meetings in which they continued to
9 discuss various proposals that would further the Governor's principles.

10 7. On June 30, 2004, counsel for all parties appeared before this Court for a status
11 conference regarding the parties' efforts to settle this case. The parties reported on their work
12 together to draft proposals for legislation on the substantive issues raised by plaintiffs' case. The
13 parties further reported that, on several issues, the proposals had reached the stage that plaintiffs'
14 counsel could recommend to the plaintiff class representatives that the proposals should be the basis
15 for a settlement.

16 8. The parties continued to negotiate after the status conference, meeting many times and
17 circulating numerous drafts. Settlement negotiations were attended by lead counsel, negotiations
18 were vigorous, and proposals were thoroughly analyzed and debated. Counsel for all parties worked
19 hard to advocate for their clients' positions on how best to improve California's schools. In late July,
20 the State's counsel presented the parties with the State's final proposal for settling the case. The
21 proposal provided benefits to the class that exceeded those to which the State had agreed previously.
22 The intervenors' advocated for increased funding to support education reform. In addition, LAUSD,
23 in particular, committed effort and resources to expanding its facilities capacity in order to phase out
24 the use of Concept 6.

25 9. In July and August, counsel for plaintiffs spoke with eleven of the thirteen class
26 representatives about the parties' Settlement Agreement. Counsel explained the settlement terms and
27 the settlement process and discussed why they believe the settlement to be a fair and reasonable
28

1 resolution of the case. All of these class representatives approved the proposed settlement without
2 reservation and authorized plaintiffs' counsel to move forward with the proposed agreement.

3 10. Plaintiffs' counsel have discussed settlement with Cindy Diego; Lizette Ruiz; the
4 guardians for Moises Canel; the guardian for Krystal Ruiz; Manuel Ortiz and his guardian; the
5 guardian for Carlos and Richard Ramirez; D'Andre Lampkin, Delwin Lampkin, and their guardian;
6 and the guardian for Samuel and Jonathan Tellechea. Plaintiffs' counsel has been unable to schedule
7 meetings with Silas Moultrie despite repeated attempts and letters sent to his last known address. As
8 mentioned in plaintiffs' Notice of Settlement, plaintiff Carlos Santos has not approved or disapproved
9 of the Settlement Agreement because his guardian, Marcelino Lopez, is now a member of the
10 Ravenswood District school board and lawyers for the district have advised him that there is an
11 appearance of a conflict. Mr. Lopez has stated that he trusts that counsel will do what is right for the
12 class and approves of the goal of resolving the case in a settlement, but to avoid an appearance of
13 conflict, he will withhold comment on the content of the Settlement Agreement.

14 **Terms of the Settlement**

15 11. On August 13, 2004, the parties reached agreement on the terms of the proposed
16 settlement. The Settlement Agreement provided for a package of legislative proposals aimed at
17 ensuring that all students will have books, that their schools will be clean and safe, and that they will
18 have improved access to qualified teachers. Attached hereto as Exhibit A are true and correct copies
19 of the Settlement Implementation Agreement, Covenant Not to Sue and Provision Regarding
20 Attorneys Fees.

21 12. On August 17, 23, and 24, 2004, the California Legislature's Joint Committee to
22 Develop a Master Plan heard testimony regarding the package of legislative proposals. On
23 August 24, 2004, four of the bills in the legislative package were proposed; the fifth bill was
24 proposed on August 27, 2004. The Legislature passed all five bills in the legislative package on
25 August 27, 2004.

26 13. On September 29, 2004, Governor Schwarzenegger signed laws implementing the
27 legislative proposals set forth in the parties' Settlement Agreement. Attached hereto as Exhibit B is
28

1 the 9/29/04 Press Release from the Office of the Governor, *Governor Schwarzenegger Signs*
2 *Landmark Education Reforms into Law.*

3 14. Five statutes have been enacted to implement the *Williams* settlement: SB 550 & AB
4 2727 (establishing minimum standards regarding school facilities, teacher quality, and instructional
5 materials and an accountability system to enforce these standards); AB 1550 (phasing out the use of
6 the Concept 6 calendar by July 1, 2012 and setting benchmarks for districts to reach this goal); AB
7 3001 (encouraging placement of qualified teachers in low performing schools; enhancing an existing
8 oversight mechanism to ensure that teachers are qualified to teach the subject matter to which they
9 have been assigned and to ensure that teachers of English Learners are properly trained; and
10 streamlining the process for highly qualified teachers from out-of-state to teach in California
11 schools); and SB 6 (providing up to \$800 million beginning in the 2005-06 fiscal year for districts to
12 address emergent facility repair projects and approximately \$25 million in 2004-05 to assess the
13 condition of schools in the bottom three deciles.) True and correct copies of the five statutes are
14 attached hereto as exhibits C through G.

15 15. The 2004-05 State budget includes funding for some of the financial terms of the
16 settlement by including \$138.7 million for new instructional materials in decile 1-2 schools and
17 approximately \$50 million to implement other settlement goals. The budget also maintains the
18 instructional materials categorical program, with funding for this year of \$363 million before the
19 addition of the new instructional materials funding for decile 1 and 2 schools.

20 16. The defendants were not willing to adopt plaintiffs' proposal that there should be a
21 ceiling on the percentage of teachers in any school who lack full credentials. Defendants argued that
22 the requirements of the federal No Child Left Behind Act that every teacher be highly qualified and
23 compliance with those requirements, in accordance with the federal deadline, by the end of 2006, is
24 sufficient. The State has enacted new definitions for teacher "misassignments" and "teacher
25 vacancies" which will help to ensure that teachers are properly trained to teach their subject matter
26 and to teach English Learners, and which will work to limit the practice of creating classes without a
27 permanent teacher assigned. Assembly Bill 3001 also facilitates teacher hiring by removing several
28 requirements that have impeded the credentialing in California of some teachers from out-of-state.

1
2 **Experience of Plaintiffs' Counsel**

3 17. Lead counsel for plaintiffs are very experienced in class action and civil rights
4 litigation. Plaintiffs' counsel in this case consists of a coalition of civil rights organizations, public
5 interest law groups, and private lawyers. Lead counsel are the ACLU Foundation of Southern
6 California, the ACLU Foundation of Northern California, Public Advocates, the Mexican American
7 Legal Defense Fund (MALDEF), and Morrison & Foerster. The lawyers responsible for handling the
8 case at these organizations have extensive experience litigating similar cases and have the
9 background and expertise to make the determination that the proposed settlement is a fair and
10 reasonable resolution of the claims brought by plaintiffs. I highlight the experience and expertise of
11 counsel in the following paragraphs.

12 18. Attorneys at the ACLU Foundation of Southern California (ACLU-SC) who have
13 represented the class include Mark Rosenbaum, Catherine Lhamon, and Peter Eliasberg, among
14 others.

15 19. Mark Rosenbaum is the legal director of the ACLU-SC. He has been an attorney with
16 the ACLU since January 1974 and legal director since 1994. He is an experienced counsel in the
17 areas of constitutional and civil rights law. For thirty years, he has litigated cases raising novel and
18 complex constitutional and civil rights claims, including in the areas of disability rights, health care,
19 education, and social services. Mr. Rosenbaum also has extensive experience litigating class action
20 cases and other cases involving educational equity and civil rights, including the following:
21 *Crawford v. Board of Education* (Los Angeles school desegregation case), *Rodriguez v. Board of*
22 *Education* (case regarding inequitable distribution of resources to inner city students and unequal
23 educational opportunities), *Serna v. Eastin* (case regarding inadequate education, lack of textbooks,
24 and deficient facilities at schools in Compton), *Smith v. Board of Education* (case regarding lack of
25 special education services for learning and emotional disabilities in Los Angeles School District),
26 *Tinsley v. Palo Alto School District* (metropolitan desegregation case), and *Katie A. v. Bonta* (case
27 regarding provision of mental health services to foster children in Los Angeles).

28 20. Catherine Lhamon is a staff attorney at ACLU-SC with experience in civil rights
matters, including educational equity issues. Ms. Lhamon has worked at the ACLU-SC since 1999

1 focusing the majority of her time on *Williams v. State of California*. Prior to working on this case,
2 she co-counseled with Mark Rosenbaum on *Molina v. Los Angeles City Board of Education et al.*
3 (class action suit regarding inequitable access to school facilities).

4 21. Peter Eliasberg is the managing attorney of the ACLU-SC, and has also been involved
5 in a number of class action civil rights cases, including *Beauchamp, et al. v. Los Angeles County*
6 *Mass Transit Authority* (case involving disability issues), *Miles et al. v. County of Los Angeles* (case
7 involving disability issues), and *Daniel v. State of California* (unequal access to AP classes).

8 22. John Affeldt has acted as senior counsel for the class at Public Advocates, Inc.
9 Mr. Affeldt is the Managing Director of Public Advocates and has been an attorney with Public
10 Advocates since 1991. At Public Advocates he has focused extensively on complex, class action
11 litigation, primarily involving issues of educational equity. Among other actions, Mr. Affeldt was
12 lead counsel on behalf of a class of over 50,000 individuals in a case against the State of California
13 involving the California Basic Educational Skills Test. He has successfully represented a class of all
14 African American children in California public schools by maintaining in place, despite repeated
15 challenges, an injunction preventing the use of discriminatory IQ tests for placement into special
16 education. Mr. Affeldt also acted as lead counsel in Public Advocates' *Yvetter Doe v. Belshe* and
17 *LCHC v. Belshe* litigation, which halted the State's denial of prenatal emergency medical care to tens
18 of thousands of undocumented immigrant residents.

19 23. Attorneys at MALDEF who have represented the class include Thomas Saenz and
20 Hector Villagra. Thomas Saenz and Hector Villagra are, respectively, the Vice President of
21 Litigation and Los Angeles Regional Counsel at MALDEF. Mr. Saenz has worked at MALDEF
22 since 1993 and Mr. Villagra has worked at MALDEF since 1996.

23 24. Mr. Saenz has served as counsel in numerous civil rights cases, involving such issues as
24 affirmative action, educational equity, employment discrimination, immigrants' rights, and language
25 rights. He served as MALDEF's lead counsel in successfully challenging California's Proposition
26 187 in court, presenting extensive written and oral arguments on numerous occasions in three
27 different cases involving the anti-immigrant initiative.

28

1 25. Mr. Villagra has served as counsel in numerous civil rights cases involving such issues
2 as educational equity, employment discrimination, and language rights. Mr. Villagra was also
3 MALDEF's lead counsel in the successful challenge to the distribution of Proposition 1A funds.

4 26. Alan Schlosser has acted as senior counsel for the class at the ACLU of Northern
5 California. He is the legal director of the ACLU Foundation of Northern California. Mr. Schlosser
6 has been at the ACLU Foundation of Northern California since 1976 and legal director since 2000.
7 Mr. Schlosser has litigated a wide array of class action, civil rights and civil liberties cases in state
8 and federal courts, including the following: *International Molders Union v. U.S. Immigration &*
9 *Naturalization Service* (class action challenge to INS practices), *Brown v. Jordan* (class action for
10 damages on behalf of persons arrested during Rodney King verdicts); *Lazenby v. City of Vallejo* (class
11 action challenge to law enforcement searches of home of welfare recipients), and *Golden Gateway*
12 *Center v. Golden Gateway Tenants Association* (action involving challenge to free speech).

13 27. Morrison & Foerster LLP is a large international law firm that has for many years
14 maintained one of the most extensive pro bono public interest law practices of any private law firm.
15 This action has been the largest pro bono case in our history in terms of resources committed. Our
16 legal team has spent over 73,000 hours on this case.

17 28. Michael Jacobs and I have acted as the managing partners of this case on behalf of
18 Morrison & Foerster. In addition to Mr. Jacobs and me, the Morrison & Foerster team representing
19 the class includes: Matt Kreeger, Anthony Press, Michael Feuer, and, at various points in the case,
20 nearly twenty associates, legal assistants, and other support staff. Morrison & Foerster has
21 undertaken this case as part of its commitment to rendering *pro bono* legal services. Our firm has an
22 active and well-supported *pro bono* program, which has for at least fifteen years included a focus on
23 issues affecting children, and education in particular. Morrison & Foerster was one of counsel for the
24 plaintiffs in *Butt v. State of California*, including the appellate proceedings resulting in the opinion
25 reported at 4 Cal. 4th 668, 688 (1992).

26 29. I associated with Morrison & Foerster in 1980, and became a partner of the firm in
27 1984. I have been involved in a general litigation practice for more than twenty years, including
28 complex civil rights cases and class actions. I have been involved in a number of class actions on

1 both the plaintiff and defendants' sides. I have also been involved in previous *pro bono* cases on
2 conditions in public schools. Among other cases, beginning in 1991, my partner, Matthew Kreeger
3 and I served as counsel to a certified plaintiff class of Latino students in a federal desegregation case,
4 *Vasquez v. San Jose Unified School District*, Civil No. 71-2130 RMW (Northern District of
5 California). Our work in that case has included litigation and negotiation that resulted in a
6 comprehensive Remedial Order, which was approved by the Court in 1994.

7 30. Mr. Jacobs joined Morrison & Foerster in 1983 and is a partner in its San Francisco
8 office. He served as co-head of the firm's 140-person Intellectual Property Group since its founding
9 in 1990 until February 2003. He also served as the firm's worldwide Managing Partner for
10 Operations from 1995 to 1997.

11 31. In addition to the attorneys listed above, other cooperating co-counsel listed on the
12 pleadings have provided expertise in issues relating to civil rights, public education, and class action
13 advocacy throughout the litigation. The class has been ably represented by counsel with a range of
14 experience and expertise in similar cases.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct. Executed on December 2, 2004, in San Francisco, California.

17
18 
19 _____
20 Jack W. Londen
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EXHIBIT A

**SETTLEMENT
IMPLEMENTATION
AGREEMENT**

SETTLEMENT IMPLEMENTATION AGREEMENT

It is hereby agreed among the Defendants (the State of California, the State Board of Education, the Superintendent of Public Instruction, and the State Department of Education), the plaintiff class representatives ("Plaintiffs"), and the undersigned Intervenor (the "Settling Intervenor") (collectively, the "Settling Parties") in *Williams v. State of California*, Case Number 312236 in the Superior Court in and for the City and County of San Francisco ("the Action") that:

1. Promptly after the Settling Parties execute this Settlement Agreement, Plaintiffs (or, at the State's option, the State and Plaintiffs jointly) shall file a Notice of Settlement. The Notice of Settlement will describe the terms of the settlement; seek the Court's preliminary approval of the settlement; provide a procedure for giving notice to the members of the Plaintiffs' class and seek approval to proceed according to the process established in this Settlement Agreement, including a continued stay of the litigation, pending final court approval. Plaintiffs' counsel shall circulate the Notice of Settlement to the Settling Parties for their review and comment before the Notice is filed with the Court. Upon execution of this Settlement Agreement, Defendant State of California will file a notice of dismissal without prejudice of its cross-complaint in the Action (the "Cross Complaint").

2. The Settling Parties agree to engage in good faith efforts to obtain the enactment of legislation that implements the legislative proposals attached to this Settlement Agreement (the "Legislative Proposals") during the current legislative session and, to the extent that goal is not attained, as soon as possible thereafter. Consistent with this commitment, the Settling Parties also agree that they will not advocate or support any

legislative measures relating to the Legislature's consideration of the proposed legislation to implement the settlement which do not substantially conform to the Legislative Proposals. A legislative measure does not "Substantially Conform" to the Legislative Proposals if it: (1) is inconsistent with the language and intent of the Legislative Proposals, including all duties, limitations, and deadlines set forth therein; or (2) contains any revisions or modifications that add significant costs or cost pressures.

3. No later than October 15, 2004, Plaintiffs shall notify the Defendants and the Settling Intervenor whether they agree that the legislation that has been enacted by the Legislature in 2004 and signed by the Governor (the "2004 Legislation") Substantially Conforms to the Legislative Proposals, which agreement shall not unreasonably be withheld. If Plaintiffs agree that the 2004 Legislation Substantially Conforms, they shall promptly submit a motion for final approval of the settlement and dismissal of the Action as provided in this Settlement Agreement.

4. In the event that Plaintiffs, the State Board of Education, the Superintendent of Public Instruction, the State Department of Education, or any of the Settling Intervenor believe that the 2004 Legislation does not Substantially Conform to the Legislative Proposals, they shall engage in consultation (as described in paragraph 7 below), giving written notice to all Settling Parties of the alleged deficiencies and providing the State with an opportunity to cure any alleged shortcoming by any means available, including fiscal, programmatic, or administrative solutions. The State may give notice of the intention to seek enactment of the substance of the Legislative Proposals during the 2005 legislative session; and if so, Plaintiffs shall await the outcome of the efforts to enact the proposals during 2005. If Plaintiffs, the State Board of Education, the Superintendent of

Public Instruction, or any of the Settling Intervenor contend that what has been enacted during the 2005 legislative session (the "2005 Legislation") does not substantially conform to the Legislative Proposals then, after consultation, they may apply to the Court for leave to withdraw from the Settlement Agreement based on a showing of substantial and material differences between the 2004 Legislation/2005 Legislation and the Legislative Proposals.

5. In the event the Court grants final approval of the settlement:

- a. The Action shall be dismissed without prejudice; and Plaintiffs and, subject to approval by the Court pursuant to Cal. Civ. Proc. §581(k), members of the Plaintiffs' class shall be bound by the separate Covenant Not To Sue which is, by this reference, incorporated into and made a part of this Settlement Agreement.
- b. Defendant State of California will file a notice of dismissal with prejudice of the Cross Complaint.
- c. The Settling Intervenor will file notices of dismissal without prejudice of their complaints in intervention in the Action.
- d. As consideration for the Settling Parties' execution of this Agreement, there shall be no application for an award of attorneys' fees or costs to be paid by any party, except as provided in the separate Provision As To Claims for Attorneys' Fees agreed between the State and plaintiffs. Settling Intervenor shall have no liability for any fees or costs related to or arising from the Action.

6. Any dismissal and any covenant not to sue that applies to members of the Plaintiff class shall be subject to Court review pursuant to Cal. Civ. Proc. §581(k). In the event of disapproval by the Court at any stage of such proceedings, the Settling Parties

shall meet and confer in the attempt to correct any deficiencies. This Settlement Agreement shall not be enforceable after a final order declining to approve the settlement.

7. Plaintiffs, Defendants and Settling Intervenor agree to engage in consultation with each other before taking an action that could provoke a reasonable objection based on the letter or spirit of this Settlement Agreement. This duty of consultation shall apply to any party who applies to the Court to withdraw from or modify the settlement, for relief from a covenant not to sue, or for any order in connection with the settlement.

8. Nothing in this Settlement Agreement and no action taken by any Settling Party in the course of the negotiation of this Settlement Agreement and its attachments, or the drafting of and lobbying for the Legislative Proposals, the 2004 Legislation or the 2005 Legislation shall waive or be construed as a waiver of any party's claim for reimbursement of a state mandate or entitlement to State payment pursuant to Cal. Const. Art. 13B § 6 and all implementing statutes. The Settling Intervenor expressly reserve their rights to seek reimbursement for any state mandate pursuant to Cal. Const. Art. 13B § 6 and all implementing statutes.

9. Requests by defendants or Settling Intervenor for funding to meet workload is consistent with this agreement and shall not be a breach of the covenant to support legislation. A request by any Settling Party to clarify a proposal is not inconsistent with this commitment.

10. Except where specifically so noted in this Settlement Agreement, the defendants take no position regarding the plaintiffs' contentions in this suit or regarding the ultimate conclusions that would follow from those contentions.

11. Pursuant to California Code of Civil Procedure § 583.330, the Settling Parties stipulate to waive the right to dismissal of this action if it has neither been resolved nor proceeded to trial by May 17, 2005, five years from the date of the commencement of this litigation.

Dated: August 12, 2004

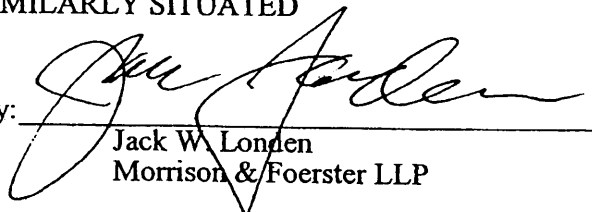
DEFENDANT THE STATE OF CALIFORNIA

By: _____
David M. Verhey
Deputy Legal Affairs Secretary
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DEFENDANTS THE STATE
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PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
AD LITEM, ET AL., EACH INDIVIDUALLY
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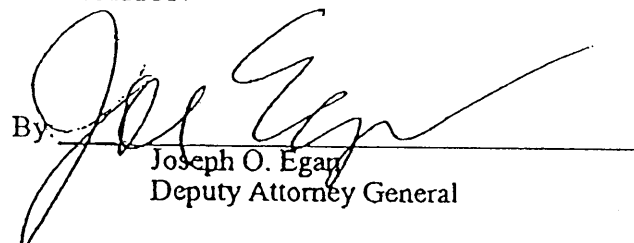
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John T. Affeldt
Jenny P. Pearlman
Public Advocates, Inc.

Thomas Saenz
Hector Villagra
Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs

INTERVENOR AND CROSS-DEFENDANT
LOS ANGELES UNIFIED SCHOOL DISTRICT

By:

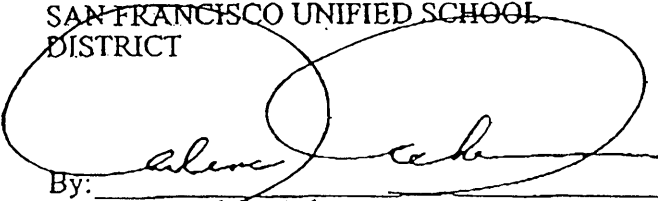
A handwritten signature in black ink, appearing to be "Kevin Reed", written over a horizontal line.

Kevin Reed
General Counsel

INTERVENOR AND CROSS-DEFENDANT
LONG BEACH UNIFIED SCHOOL DISTRICT

By: _____
David Grossman
LOEB & LOEB
Attorneys for

INTERVENOR AND CROSS-DEFENDANT
SAN FRANCISCO UNIFIED SCHOOL
DISTRICT

By:  _____
Arlene Ackerman
Superintendent of Schools

INTERVENOR CALIFORNIA SCHOOL
BOARDS ASSOCIATION

By: _____
N. Eugene Hill
Olson, Hagel & Fishburn, LLP

By: _____
Abe Hajela
Olson, Hagel & Fishburn, LLP

INTERVENOR AND CROSS-DEFENDANT
LONG BEACH UNIFIED SCHOOL DISTRICT

By: _____
David Grossman
LOEB & LOEB
Attorneys for

INTERVENOR AND CROSS-DEFENDANT
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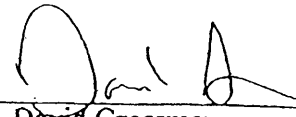
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By: _____
Abe Hajela
Special Counsel, California School
Boards Association

By: _____
N. Eugene Hill
Olson, Hagel & Fishburn, LLP

INTERVENOR AND CROSS-DEFENDANT
LONG BEACH UNIFIED SCHOOL DISTRICT

By: _____



David Grossman
LOEB & LOEB

INTERVENOR AND CROSS-DEFENDANT
SAN FRANCISCO UNIFIED SCHOOL
DISTRICT

By: _____

Arlene Ackerman
Superintendent of Schools

INTERVENOR CALIFORNIA SCHOOL
BOARDS ASSOCIATION

By: _____

Abe Hajela
Special Counsel, California School
Boards Association

By: _____

N. Eugene Hill
Olson, Hagel & Fishburn, LLP

STANDARDS, BENCHMARKS, AND CORRECTIVE ACTION:

Parts I & II

August 12, 2004

“Districts should be accountable for providing standards-aligned instructional materials for every student and adequately maintained school facilities.” (May 14, 2004 letter from Peter Siggins, page 2 point 2.)

Instructional Materials:

The following language represents the Administration’s proposal to ensure that every student is provided with standards-aligned instructional materials. Rather than a narrative format as has been used to date in our discussion, the concept language has been placed into appropriate Education Code sections to facilitate a more specific discussion of the concepts. The code section references are arranged in numerical order for easy reference.

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

* * *

(c) **(1) (A)** 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 may annually 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.

(B) As a condition of receipt of funds, the county superintendent, or his or her designee, must annually present a report describing the state of the schools ranked in deciles 1 to 3, inclusive, of the Academic Performance Index pursuant to Section 52056 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 school district governing board and the board of supervisors of his or her county. For Amador, Alpine, Del Norte, San Francisco, Sierra, Mariposa, and Plumas Counties, these county offices of education shall contract with a neighboring county office of education or an independent auditor to conduct the required visits and make all required reports. The results of the visit shall be reported to the school district governing board on a quarterly basis at a regularly scheduled meeting, in accordance with public notification requirements.

The visits shall be conducted at least annually and must meet the following criteria:

(1) Not disrupt the operation of the school

(2) Be performed by individuals who meet the requirements of Section 45125.1, including an independent auditor that conducts the visits.

(3) Consist of not less than 25 percent unannounced visits. During unannounced visits the 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 or instructional materials, as defined by Section 60119.

(4) The priority objective of the visits for schools ranked in deciles 1 to 3, inclusive, shall be to determine if there are all of the following:

(A) Sufficient textbooks as defined in Section 60119, and as provided for in (i) of this section.

(B) Emergency or urgent facilities conditions that pose a threat to the health or safety of pupils.

(C) Accurate 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 in sections 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.

* * *

(i) (1) Enforce the use of sufficient state textbooks or instructional materials and of high school textbooks or instructional materials regularly adopted by the proper authority. For purposes of this subdivision, sufficient textbooks or instructional materials has the same meaning as in subdivision (c) of Section 60119. In enforcing the use of textbooks or instructional materials, the superintendent shall specifically review at least annually schools in deciles 1 to 3, inclusive, of the Academic Performance Index as a priority if those schools are not currently under review through a State or federal intervention program. The reviews shall be conducted within the first four weeks of the school year.

If the superintendent determines that the district does not have sufficient textbooks or instructional materials pursuant to subdivision (a)(1)(A) of 60119 and as defined by subdivision (c) of Section 60119, the superintendent shall do the following:

(1) Prepare a report that specifically identifies and documents the areas or instances of non-compliance.

(2) Promptly provide a copy of the report to the district, as provided in subdivision (c), and forward the report to the Superintendent of Public Instruction.

(3) Provide the district with the opportunity to remedy the deficiency. However, the county superintendent shall ensure resolution no later than the second month of the school year.

(4) If the deficiency is not remedied pursuant to paragraph (3), the county superintendent shall request the State Department of Education, with approval by the State Board of Education, to purchase textbooks or instructional materials, necessary to comply with sufficiency requirement of this section. If the State Board approves a recommendation from the department to purchase textbooks or instructional materials for the district, the Board shall issue a public statement at a regularly scheduled meeting indicating that the district superintendent and the governing board failed to provide pupils with sufficient textbooks or instructional materials as required by this section. Prior to the purchase of textbooks or instructional materials, the department shall consult with the school district superintendent to determine the districts selection of textbooks or instructional materials. All purchases of textbooks or instructional materials shall comply with Chapter 3.25 (commencing with Section 60420). The funds necessary for the

purchase shall be considered to be a loan to the school district receiving the textbooks or instructional materials. Unless the district repays the amount owed based upon an agreed upon schedule with the Superintendent of Public Instruction, the Superintendent of Public Instruction shall notify the Controller and the Controller shall deduct an amount equal to the total amount used to purchase the textbooks, from the district's next principal apportionment or other apportionment of state funds.

It is the intent of the Legislature to appropriate any savings achieved as a result of schools being phased out of from the High Priority Schools Grant Program to provide High Priority Schools Grant awards to eligible schools, pursuant to Section 52055.605, that have not previously received a grant under this program.

* * *

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not adopt all of the listed options as a condition of funding under the terms of this act. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of high-priority pupils.

(b) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(1) Pupil literacy and achievement.

(2) Quality of staff, including highly qualified teachers as required by the No Child Left Behind Act and provision of appropriately credentialed teachers for English learners.

(3) Parental involvement.

(4) Facilities in good repair as specified in subdivision (a) of Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089, and curriculum, instructional materials, at a minimum, consistent with the requirements of Section 60119, and support services. The amendments to this paragraph shall apply only to schools entering the program on or after the 2004-05 fiscal year.

52055.640. (a) As a condition of the receipt of funds for the initial and each subsequent year of funding pursuant to this article and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the progress made towards achieving English language proficiency as measured by the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners, as defined in subdivision (c) of Section 60119. The amendments to this section shall apply only to schools entering the program on or after the 2004-05 fiscal year.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

* * *

60119. (a) For the 1999-2000 fiscal year and each fiscal year thereafter, in order to be eligible to receive funds available for the purposes of this article, the governing board of a school district shall take the following actions:

(1)(A) The governing board shall hold a public hearing or hearings at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders, and shall make a determination, through a resolution, as to whether each pupil in each school in the district has, ~~or will have prior to the end of that fiscal year,~~ sufficient textbooks or instructional materials, or both, in each subject (mathematics, science, history -social science and English/language arts (including any English Language Development component of an adopted program)) that are consistent with the content and cycles of the curriculum framework adopted by the State Board of Education. The public hearing shall take place on or before the end of the eighth week from the first day in which pupils attended school for that year, except for districts that operate schools on multitrack, year-round calendars, the hearing shall take place on or before the end of the eighth week from the first day in which pupils attended school for that year on any tracks that begin school years in the months of August or September.

(B) As part of the hearing required in this section, the governing board shall also make a written determination as to whether each pupil enrolled in Foreign language and Health courses in the district has sufficient textbooks or instructional materials, for those subjects that are consistent with the content and cycles of the curriculum framework adopted by the state board. The governing board shall also determine the availability of laboratory science equipment as applicable to science laboratory courses in grades 9 to 12, inclusive. However, the provision of the textbooks or instructional materials or science equipment specified in this subparagraph shall not be a condition of receipt of funds as provided by this subdivision.

(2) (A) If the governing board determines that there are insufficient textbooks or instructional materials, or both, the governing board shall provide information to

classroom teachers and to the public setting forth, for each school in which an insufficiency exists, the extent of the insufficiency, the reasons that each pupil does not have sufficient textbooks or instructional materials, or both, and take any action, except an action that would require reimbursement by the Commission on State Mandates, to ensure that each pupil has sufficient textbooks or instructional materials, or both, within a two-year period two months of the beginning of the school year in which the determination is made from the date of the determination.

* * *

(b) The governing board shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district. The hearing shall be held at a time that will encourage the attendance of teachers and parents and guardians of pupils who attend the schools in the district and shall not take place during or immediately following school hours.

(c) (1) For purposes of this section sufficient textbooks or instructional materials means that each pupil, including English Learners, has a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments. This shall not be construed to require two sets of textbooks or instructional materials for each pupil.

(2) Sufficient textbooks or instructional materials as defined in paragraph (1), does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

* * *

60252. (a) The Pupil Textbook and Instructional Materials Incentive Account is hereby created in the State Instructional Materials Fund, to be used for the Pupil Textbook and Instructional Materials Incentive Program set forth in Article 7 (commencing with Section 60117) of Chapter 1. All money in the account shall be allocated by the Superintendent of Public Instruction to school districts maintaining any kindergarten or any of grades 1 to 12, inclusive, that satisfy each of the following criteria:

(1) A school district shall provide assurance to the Superintendent of Public Instruction that the district has complied with Section 60119.

(2) A school district shall ensure that the money will be used to carry out its compliance with Section 60119 and shall supplement any state and local money that is expended on textbooks or instructional materials, or both.

(3) A school district shall ensure that textbooks or instructional materials are ordered before the school year begins, to the extent practicable.

(b) The superintendent shall ensure that each school district has an opportunity for funding per pupil based upon the district's prior year base revenue limit in relation to the prior year statewide average base revenue limit for similar types and sizes of districts. Districts below the statewide average shall receive a greater percentage of state funds, and districts above the statewide average shall receive a smaller percentage of state funds, in an amount equal to the percentage that the district's base revenue limit varies from the

statewide average. Any district with a base revenue limit that equals or exceeds 200 percent of the statewide average shall not be eligible for state funding under this section.

~~—(e) This section shall become inoperative on January 1, 2003, and, as of January 1, 2007, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

Repeal Education Code Section 62000.4

~~62000.4. The Instructional Materials Program shall sunset on June 30, 2006. The implementation of the Instructional Materials Program during the 2002-03, 2003-04, 2004-05, and 2005-06 fiscal years shall be contingent upon funding in the annual Budget Act.~~

Additional Legislation

The Administration proposes to require publishers of instructional materials to provide high school districts and unified districts with a standards map related to the instructional materials with verification by the California Department of Education (CDE) with approval by the State Board of Education (SBE). However, the verification process is contingent upon the payment of a fee by the publisher, to be determined by CDE. Thus, the verification process is made available to publisher on a voluntary basis (fee vs. tax issues). Because of the great value in the State endorsement of materials, it is expected that the publishers will voluntarily submit their materials for verification. Currently Superintendent O'Connell is pursuing a similar proposal through Senate Bill 1405 (Karnette), which we would request be amended to reflect this proposal.

Audit Guide Changes

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

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

(c) Compliance audit shall also include the verification of each of the following:
(1) the reporting requirements for the sufficiency of textbooks or instructional materials, or both, as defined in Section 60119,
(2) teacher missassignments pursuant to Section 44258.9 and

(3) the accuracy of information reported on the School Accountability Report Card required by Section 33126. These requirements shall be added to the audit guide requirements pursuant to Section 14502.1 (b).

* * *

41020 (i) (1) Commencing with the 2002-03 audit of local education agencies pursuant to this section, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a local education agency under his or her jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions have either been corrected or an acceptable plan of correction has been developed.

(2) Commencing with the 2004-05 audit of local education agencies pursuant to this section, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a local education agency under his or her jurisdiction related to attendance, inventory of equipment, internal control, use of Instructional Materials Program funds, teacher missassignments pursuant to Section 44258.9, information reported on the School Accountability Report Card required by Section 33126 and any miscellaneous items, and determining whether the exceptions have either been corrected or an acceptable plan of correction has been developed.

* * *

41344.4 Notwithstanding any other provision of law, a local education agency shall not be required to repay an apportionment based on a significant audit exception related to the requirements specified in subdivision (c) of 14501, if the county superintendent of schools certifies to the Superintendent of Public Instruction and the Controller that the audit exception has been corrected by the local education agency or that an acceptable plan of correction has been submitted to the county superintendent of schools, pursuant to Section 41020(k). With respect to textbooks and instructional materials the plan shall be consistent with the requirements of section 60119 (a)(2)(A).

* * *

Uniform Complaint Process

The Administration proposes that each district use its existing uniform complaint process, as set forth in Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. The process shall include, but is not limited to, each of the following components:

(A) Complaints may be filed anonymously. Complainants who identify themselves are entitled to a response, if they indicate they request a response (forms to include a check off if a response is requested). All complaints and responses shall be public records.

(B) The complaint form shall specify the location for filing these complaints and complainants may add as much text to expand on the complaint as they wish.

(C) Complaints should be filed with the Principal of the school or his or her designee. Complaints about problems beyond the authority of the school Principal shall be forwarded in a timely manner but not to exceed 10 working days to the appropriate district official for resolution.

The Principal or district superintendent's designee, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. The Principal or district superintendent's designee shall remedy the problem within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The Principal or district superintendent's designee shall report to the complainant of the resolution of the complaint within 45 working days of the initial filing. If the Principal makes this report, then the Principal shall also report the same information in the same timeframe to the district superintendent's designee.

Complainants not satisfied with the resolution of the Principal or superintendent's designee shall have the right to describe the complaint to the governing board of the district at a regularly scheduled hearing thereof. As to complaints involving emergency or urgent school facilities conditions, a complainant not satisfied with the resolution of the Principal or superintendent's designee shall have the right to file an appeal to the Superintendent of Public Instruction, who shall provide a written report to the State Board of Education describing the basis for the complaint and, as appropriate, a proposed remedy for the issue described in the complaint.

Districts shall report summarized data on the natures and resolutions of all complaints on a quarterly basis to the county superintendent of education and the school governing board. The summaries shall be publicly reported on a quarterly basis at regularly scheduled school board meeting. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

These procedure are intended to address all of the following:

Complaints related to Instructional Materials where:

- Consistent with Section 60119:
 1. A student, including an English Learner, does not have standard-aligned textbooks or instructional materials, State Board adopted or district-adopted (for grades 9-12) text or other required instructional material to use in class.

2. A student does not have access to instructional materials to use at home/after school as needed to meet homework assignments.
- Materials are in poor or unusable condition, e.g. pages are missing, books are unreadable due to damage.

Complaints related to Teacher Vacancy or Misassignment:

- A semester begins and no permanent teacher is assigned to teach a class.
- A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20% English learner students in the class.
- A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

For purposes of this section "vacant position" means a position that is budgeted but not filled by a permanent or probationary employee.

For purposes of this section "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential, or is otherwise authorized by law.

Complaints related to Facilities:

- Emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff.

In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the district notifying parents and guardians of the following:

- (1) Sufficiency of textbooks or instructional materials as defined in section 60119.
- (2) School facilities must be clean and safe and in good repair pursuant to Sections 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.
- (3) The location from which to receive a form to file a complaint in case of a shortage.

Posting the notice downloadable from the CDE website satisfies this requirement.

School Facilities

Good repair is determined by local health standards applicable to similar facilities. Sections 17014, 17032.5, 17070.75, and 17089 shall be amended to define "good repair" to mean, until at least July 31, 2005, satisfaction of local health standards applicable to restaurants, rental housing, and other similar facilities.

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 kept in good repair, working order, and condition.

* * *

(e) As a condition of participation in the school facilities program and the receipt of funds pursuant to Section 17582, each district shall establish a facilities inspection system to ensure that school are in good repair consistent with local health standards applicable to restaurants, rental housing and other similar facilities (Health & Safety Code Section 16500).

* * *

TEACHERS

Part III

August 12, 2004

“With respect to instruction and teaching, instructional programs and practices, as well as teacher training and development, should be pedagogically sound, focused on subject matter content and aligned to the State’s academic content standards. Every child in California should have access to qualified teachers within the time frame prescribed by the federal No Child Left Behind Act with priority given to providing fully credentialed teachers where most needed.” (May 14, 2004 letter from Peter Siggins, page 2 point 3.)

The following language represents the Administration’s proposal to ensure that every student is provided with a qualified teacher who is also a highly qualified teacher under the federal No Child Left Behind Act (NCLB). The code sections are set forth in numerical order. For clarity, only changes related to teachers are presented in this document.

33126. (a)

* * *

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

* * *

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, ~~and any assignment of teachers outside their subject areas of competence,~~ **misassignments, including misassignments of English learner teachers, and the number of vacant teacher positions** for the most recent three-year period.

For purposes of this section "vacant position" means a position that is budgeted but not filled by a permanent or probationary employee.

For purposes of this section "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential, or is otherwise authorized by law.

* * *

42127.6 (a) If at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the

current or two subsequent fiscal years or if a school district has a qualified certification pursuant to Section 42131, he or she shall notify the governing board of the school district and the Superintendent of Public Instruction in writing of that determination and the basis for the determination. The notification shall include the assumptions used in making the determination and shall be available to the public. The county superintendent of schools shall do any or all of the following, as necessary, to ensure that the district meets its financial obligations:

(7) Assign the Fiscal Crisis and Management Assistance Team to review district teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers, and extent of teacher misassignment and provide the district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers. If a district is assigned this review, the district shall follow the recommendations made unless the district shows good cause for failure to do so.

* * *

44258.9. (a) The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low . To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (e) (e).

(b) (1) Each county superintendent of schools shall annually monitor and review school district certificated employee assignment practices according to the following priority:

(A) Schools and school districts that are likely to have problems with teacher misassignment **and teacher vacancies** based on past experience or other available information. **However, priority shall be given to schools in deciles 1 to 3, inclusive, based on the Academic Performance Index ranking established by Section 52056, if those schools are not currently under review through a State or federal intervention program.**

(B) All other schools on a four-year cycle.

(2) Each county superintendent of schools shall investigate school and district efforts to ensure that any credentialed teacher in an assignment requiring a CLAD, BCLAD or SB 1969/395 training, completed the necessary requirements, for these certificates.

(3) The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel **and teacher vacancies** shall be submitted to each affected district within 4530 calendar days of the monitoring activity.

(e) County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing **and the Department of Education** summarizing the results of

all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by local district governing boards under the authority of Sections 44256, 44258.2, and 44263 of the Education Code.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) Information on certificated employee assignment practices in schools in deciles 1 to 3, inclusive, based on the Academic Performance Index ranking established by Section 52056, to ensure that, at a minimum, in any classes in these schools in which 20 percent or more students are English learners the assigned teachers possess CLAD or BCLAD credentials or have SB 1969/395 training, or is otherwise authorized by law.

(4-5) After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

* * *

(i) The State Superintendent of Public Instruction shall submit a summary of the reports submitted by county superintendents pursuant to subdivision (e) of this section to the Legislature. The Legislature shall hold, within a reasonable period after receipt of the summary, public hearings on student access to teachers and to related statutory provisions. The Legislature may also assign one or more of the standing committees or to a joint committee, to determine: (a) the effectiveness of the reviews required pursuant to this section; (b) the extent, if any, of vacancies and misassignments; and (c) the need, if any, to assist schools in deciles 1 to 3, inclusive, based on the Academic Performance Index ranking established by Section 52056, eliminating vacancies and misassignments.

* * *

44274. (a) The commission shall conduct periodic reviews, beginning in 1998, to determine whether any state has established teacher preparation standards, **including standards for teachers of English learners**, that are at least comparable and equivalent to teacher preparation standards in California.

* * *

(c) The commission shall grant an appropriate credential to any applicant from another state who has completed teacher preparation that is at least comparable and equivalent to preparation that meets teacher preparation standards in California, as determined by the

commission pursuant to this section, if the applicant has met the requirements of California for the basic skills proficiency test pursuant to subdivision (d) of Section 44275.3 and teacher fitness pursuant to Sections 44339, 44340, and 44341.

* * *

44275.3. Notwithstanding any other provision of law:

* * *

(b) Notwithstanding any other provision of this chapter, the commission shall issue a five-year preliminary multiple subject or single subject teaching credential or a five-year preliminary education specialist credential to any out-of-state prepared teacher who meets all of the following requirements:

* * *

(c) ~~An out-of-state prepared teacher who has been issued a California five-year preliminary multiple subject, single subject, or education specialist teaching credential shall pass the state basic skills proficiency test, administered by the commission pursuant to Section 44252, within one year of the issuance date of the credential in order to be eligible to continue teaching pursuant to this section.~~

(d) The commission shall issue a professional clear credential to an out-of-state prepared teacher who has met the requirements in subdivision (b) and who meets the following requirements:

(1) ~~Passage of the state basic skills proficiency test administered by the commission pursuant to Section 44252.~~

* * *

(5) ~~Completion of the study of health education pursuant to subparagraph (A) of paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.~~

(8) ~~Completion of a fifth-year program at a regionally accredited institution of higher education, except that the commission shall eliminate this requirement for any candidate who has completed an induction program for beginning teachers.~~

44325 (e): The California Commission on Teacher Credentialing shall ensure that each district internship program in California provides program elements to its interns as required by the No Child Left Behind Act, 20 USC Section 7801, and its implementing regulations, 34 CFR Section 200.56.

44453: add: The California Commission on Teacher Credentialing shall ensure that each university internship program in California provides program elements to its

interns as required by the No Child Left Behind Act, 20 USC Section 7801, and its implementing regulations, 34 CFR Section 200.56.

44511. (a) From funds appropriated for the purpose of this article, the Superintendent of Public Instruction shall award incentive funding to provide schoolsite administrators with instruction and

training in areas including, but not limited to, the following:

(1) School financial and personnel management. This training shall specifically provide instruction related to personnel management, including hiring, recruitment and retention practices and misassignments of certificated personnel.

* * *

(3) Curriculum frameworks and instructional materials aligned to the state academic standards, including ensuring the provision of textbooks or instructional materials as defined in Section 60119.

* * *

52055.640. (a) As a condition of the receipt of funds for the initial and each subsequent year of funding pursuant to this article and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

* * *

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district. Commencing with fiscal year 2004-05, for any districts with schools entering the program on or after July 2004, the report shall include whether the school does not have at least 80 percent of its teachers credentialed and the number of classes in which 20 percent or more students are English learners and assigned to teachers who do not possess that CLAD/BCLAD credentials or SB 1969/395 training, or is otherwise authorized under current law.

(c) The report on the quality of staff component shall include, but not be limited to, the following information:

* * *

52059.

* * *

(b) The system shall provide assistance to school districts and schools in need of improvement by:

(1) Reviewing and analyzing all facets of a school's operation including:

(A) Design and operation of the instructional program offered by the school, and by assisting:

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

(C) Roles and responsibilities of district and school management personnel.

(2) Assisting the school district and its schools in developing recommendations for improving pupil performance and school operations.

(3) Assisting schools and districts in efforts to eliminate misassignments of certificated personnel.

* * *

Audit Guide Changes:

See Standards and Benchmarks I & II

Additional Legislation

- The annual report to the Legislature concerning the teaching force in California (Education Code section 44225.6) shall also include data on the extent to which pupils receive instruction from teachers who do not have a preliminary or professional clear credential, the extent to which English learners receive instruction by teachers without CLAD, BCLAD, or SB1969/395 authorization and if available, the percentage and distribution throughout the state of teachers possessing the different types of credentials set forth in section 44225.6 and including CLAD, BCLAD, and SB 1969/395 credentials. [If data is available, the report shall also include information on the number of teacher vacancies.]
- In an effort to meet the highly qualified teacher timelines of NCLB, districts are encouraged to provide first priority in the receipt of resumes and job applications from credentialed teachers, with hiring priority to all schools in deciles 1 to 3, inclusive, based on the API rankings established by Education Code section 52056(a). Thereafter, any school in the district may review and offer a position to a new applicant. Applicant teachers are not required to accept the offers from first priority schools as a condition for employment in the district.

FACILITIES INVENTORY & GRANT PROGRAM

Part IV

August 12, 2004

"The defendants will prepare a statewide inventory of all school facilities to determine the capacity, usage and present physical status of those facilities." (May 14, 2004 letter from Peter Siggins, page 2, point 2.)

The Administration is committed to identifying and resolving urgent facilities needs that effect the health and safety of students and staff at schools to assist schools in deciles 1 to 3, inclusive, based on the Academic Performance Index ranking established by Section 52056. To that end, the Administration proposes an assessment of these schools as well as a state grant program to reimburse school sites and districts for costs associated with the resolution of specified facilities needs.

School Facilities Needs Assessment Grant Program

SEC. 1. Section 17591.500 is added to the Education Code to read:

(a) There is hereby established a School Facilities Needs Assessment Grant Program to provide for a comprehensive assessment of school facilities needs. The grant shall be administered jointly by the Superintendent of Public Instruction and the State Allocation Board.

(b) The grants shall be awarded to schoolsites ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index for each school.

(c) The Superintendent shall allocate funds pursuant to subdivision (b) of this Section to school districts with jurisdiction over eligible schoolsites, based on schoolsite enrollment, with a minimum allocation of _____ thousand dollars (\$X,XXX) and a maximum allocation of _____ thousand dollars (\$XX,XXX) for each schoolsite.

(d) As a condition of receiving funds pursuant to this Section, school districts shall:

(1) use the funds to develop a comprehensive needs assessment of all schoolsites eligible for grants pursuant to subdivision (b). The assessment shall contain, at minimum, all of the following for each school building that is currently used for instructional purposes:

1. the year each building was constructed
2. the year, if any, it was modernized
3. the capacity of the school

4. the number of students actually enrolled in the school
5. the density of the school campus measured in students per acre
6. the total number of classrooms at the school
7. the number of portable classrooms at the school
8. whether the school is operating on a multi-track, year-round calendar, and if so, what type; and
9. whether the school has a lunchroom, or an auditorium or other space used for student eating and not for class instruction.
10. Useful life remaining of all major building systems for each structure housing instructional space including but not limited to sewer, water, gas, electrical, roofing, fire and life safety protection.
11. Estimated costs for five years necessary to maintain functionality of each instructional space to maintain health and safety and suitable learning environment, as applicable, including classrooms, counseling, administrative space, libraries, gymnasiums, multi-purpose and feeding space, and the accessibility to such spaces.

(2) The district shall provide the data currently filed with the State as part of the process of applying for and obtaining facilities modernization or construction funds, or information that is available in CBEDS for the element required in 4, 5, 6 and 7.

(3) Districts shall use the assessment as the baseline for the facilities inspection system required pursuant to subdivision (e) of Section 17070.5.

SEC. 2. Section 17591.501 is added to the Education Code to read:

17591.501 From any moneys in the State School Deferred Maintenance Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance to complete the comprehensive assessments pursuant to this section.

School Facilities Emergency Repairs Account (FERA)

SEC. X Section 17594 is added to the Education Code to read:

(a) There is hereby established in the State Treasury the School Facilities Emergency Repairs Account. The Office of Public School Construction in consultation with the Superintendent of Public Instruction shall administer the account. A total of \$800 million shall be made available for this account as funds become available from the sources described in this paragraph. Beginning with the 2005-06 budget, at least 50 percent of the unappropriated balance, but not less than \$100 million, from the Proposition 98 Reversion Account shall be annually transferred to this fund. In addition, any other one-time Proposition 98 General Fund sources as well as any monies donated by private entities may be transferred to this account. The amounts deposited into the account shall be used for the purpose of addressing unforeseeable emergency facilities needs at schools, ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index for each school. Any donations to the account shall be tax exempt and treated as a charitable contribution to the extent allowed under both federal and state law.

(b) (1) All monies in the Facilities Emergency Repairs Account are available for reimbursement to schools, ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index for each school, to cover the school district's cost repair projects that meet the criteria specified in paragraph (c) and as approved by the State Allocation Board.

(2) As a condition of reimbursement, districts shall complete the projects and shall certify to the Office of Public School Construction that the repair or replacement could not have been avoided as part of their ongoing maintenance or deferred maintenance programs. The Office of Public School Construction shall conduct random reviews of certifications submitted by school districts to ensure that the repairs are consistent with the intent of this section.

(c) For the purpose of this Section, unforeseeable emergency facilities needs shall mean structures or systems which are unusable for their current purpose and which, as a result, pose a threat to the health and safety of pupils or staff while at school. Such needs may include the following types of facility project repair or replacements:

1. Gas Leaks
2. Existing non-functioning heating, ventilation, fire sprinklers, air conditioning systems
3. Electrical power failure
4. Major sewer line stoppage
5. Major pest or vermin Infestation
6. Broken windows or exterior doors, gates, that will not lock and that pose a security risk.
7. Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff
8. Unforeseen structural damage creating a hazard or uninhabitable condition

For the purpose of this section, structures or components shall only be replaced if it is more cost effective than repair.

(d) For the purpose of this Section, unforeseeable emergency facilities needs shall not include any cosmetic, or non-essential repairs or repairs that would already be addressed in the districts' 5 year deferred maintenance plan or through ongoing scheduled maintenance.

SEC. X Section 17594.1 is added to the Education Code to read:

(a) In addition to all other powers and duties as are granted to the State Allocation Board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to 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, for the administration of this chapter. The initial regulations adopted pursuant to this chapter shall be adopted by _____, X, 2004. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(3) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter. Regulations adopted pursuant to this subdivision shall be adopted by _____ X, 2004, and shall be adopted as emergency regulations in accordance with 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 adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

CONCEPT 6 PROPOSAL

August 12, 2004

1. Education Code section 37670 shall be amended to provide that no district not currently operating a school on a three-track year-round calendar providing fewer than 180 days of school per year ("Concept 6 Calendar") shall be allowed to begin using any such calendar and no school not currently operating on a Concept 6 calendar may be converted to that calendar. No school district may open a school on a Concept 6 calendar if doing so would increase the number of schools in the district operating on that calendar beyond the number in operation in the district, on average, over the preceding two school years.
2. Education Code section 37670 shall be amended to prohibit the use of the Concept 6 calendar after July 1, 2012 or such earlier date as may be prescribed by the Legislature under AB 560. Section 37670 shall also be amended to state that, while 2012 is the formal end of the authority to use the Concept 6 calendar, it is the intent of the state that all schools cease using it as soon as practicable.
3. As a condition of operating any school on a Concept 6 calendar in the 2004-05 school year or thereafter, a district must, by January 1, 2005, present to the State Department of Education a comprehensive action plan detailing the strategy and steps to be taken annually to eliminate the use of the Concept 6 calendar as soon as practicable.
 - a. This action plan shall include an analysis of the district's demographic forecasts, space use and needs, class sizes, programmatic constraints, facilities construction status, the amount of funding needed to create additional classroom space, and the proposed sources of that funding. A district may not rely upon the use of involuntary busing of more than 40 minutes each way, other than that otherwise done pursuant to a desegregation plan, as a means for achieving elimination of the Concept 6 calendar.
 - b. The action plan shall also contain (i) a detailed description of the multiple phases of planning and construction (e.g., site identification, site acquisition, construction commencement, construction completion/ occupancy) of projects designed to eliminate use of the Concept 6 calendar, including a reasonable projection of the number of additional seats to be provided through each of the multiple phases of planning and construction, and (ii) reasonable, district-wide numerical goals against which annual progress towards eliminating the use of the Concept 6 calendar can be measured (e.g., number of new seats added to reduce reliance on the Concept 6 calendar), including a reasonable projection of the number of students, if any, it estimates will remain on a Concept 6 calendar on July 1 of each year through 2012. However, where a district projects that it will cease use of the Concept 6 calendar before July 1, 2008, the district's comprehensive action plan need not include a detailed description, as required in (i), but only a narrative explanation of how it will accomplish the end of the use of the Concept 6 calendar and project the date that each school currently using it will cease to do so.

4. The Superintendent of Public Instruction shall evaluate the comprehensive action plans submitted by each district and shall make recommendations to the State Board of Education for approval or disapproval of the plans. The Superintendent's evaluation shall be based on the reasonableness of the district's plan in eliminating Concept 6 calendars by the earliest practicable date and no later than July 1, 2012, including whether adequate sources of funding have been identified to accomplish this end. In considering whether a district has identified adequate sources of funding, the Superintendent shall consult with the Office of Public School Construction. If the Board disapproves a plan, it shall specify the reasons for disapproval and require the district to submit a revised plan, within a specified time frame, to address the Board's concerns.

5. Each district operating a Concept 6 calendar shall report each January to the Superintendent of Public Instruction, who shall report to the State Board of Education, on progress made in reaching the annual numerical goals established in its comprehensive action plan.

Any failure to meet an annual goal shall require the district to identify the specific cause(s) of that failure and will necessitate the amendment of the comprehensive action plan showing the specific steps that will be taken to remedy that failure such that the district will still eliminate the use of the Concept 6 calendar by the ending date originally specified in the action plan.

Each district operating a Concept 6 calendar shall file a supplementary, mid-year report where the district's progress toward its numerical goals has or is projected to change materially. The report shall describe the nature and cause of the material change(s) and show the specific steps that will be taken, and detail state technical assistance needed, if any, to address the change(s).

The Superintendent of Public Instruction shall evaluate the supplementary, mid-year reports, if any, and make recommendations to the State Board of Education for approval or disapproval of the reports. The Superintendent's evaluation shall be based on the reasonableness of the district's supplemental plan to reach its annual numerical goals and eliminate Concept 6 by the earliest practicable date and no later than July 1, 2012. If the Board disapproves a supplemental report, it shall specify the reasons for disapproval and require the district to submit a revised report, within a specified time frame, to address the Board's concerns.

6. Districts planning to operate a Concept 6 calendar after June 30, 2006 must, by July 1 of 2006 and any succeeding year in which it will operate a Concept 6 calendar, as a condition of operating that calendar, prove to the satisfaction of the Superintendent of Public Instruction that substantial progress has been made toward moving all schools to a calendar of at least 180 days. The Superintendent shall submit its written evaluation (of each district's submission) to the State Board of Education, which shall determine whether substantial progress has been made.

Substantial progress shall be defined as having come within 10% of the annual numerical goals set forth in the district's comprehensive action plan.

If a district has failed to make substantial progress toward its annual numerical goals, as defined above, for any two consecutive years between 2005 and 2012, the district shall be precluded from approving any new construction or portable classroom project other than a project directly designed to eliminate the use of the Concept 6 calendar or reduce capacity-related busing that transports students more than 40 minutes to or from school; designating developer fees revenue for any purpose not directly related to eliminating Concept 6 or reducing capacity-related busing; and approving the issuance of any Certificates of Participation for any facilities-related purpose not directly related to the elimination of the Concept 6 calendar or the reduction of capacity-related busing. Construction deemed eligible and necessary by the State Allocation Board under 2 Cal. Code Regs. 1859.82(a)(1) shall not be precluded.

These restrictions on the approval of new school or portable classroom projects, designation of developer fees, and issuance of Certificates of Participation shall remain in effect until such time as the district has achieved substantial progress as determined by the State Board of Education.

7. Districts planning to operate a Concept 6 calendar after June 30, 2009 must, by July 1 of 2009 and any succeeding year in which it will operate a Concept 6 calendar, prove to the satisfaction of the Superintendent of Public Instruction that it has developed specific school building planning to deliver classroom seats sufficient to eliminate Concept 6 by the earliest practicable date and no later than July 1, 2012. The Superintendent shall submit its written evaluation (of each district's submission) to the State Board of Education, which shall determine whether the district has developed specific school building planning.

"Specific school building planning" shall mean, at a minimum, that the district has identified preferred sites and approved as required under CEQA the project(s) needed to create the capacity required, and that the district has identified and obtained the funding necessary to complete the project(s) required. If state funding is part of the funding so identified, "obtained" shall mean that the district has received 1) an apportionment from the state for the project, or 2) a preliminary apportionment for the project under the Critically Overcrowded School Facilities program.

8. If on or after July 31, 2008 and any succeeding year in which a district operates a Concept 6 calendar, the State Board of Education finds that a district has failed to make substantial progress in eliminating the Concept 6 calendar, or if on or after July 31, 2009 and any succeeding year in which a district operates a Concept 6 Calendar, the State Board of Education finds that a district has failed to develop specific school building planning, the Board shall hold a public hearing to determine the causes of such failure and the remedies to be undertaken by the state or imposed on the district to ensure elimination of the Concept 6 calendar by the earliest practicable date and no later than July 1, 2012.

9. Before the public hearing, the Superintendent of Public Instruction and the State Allocation Board shall each provide a written analysis and opinion to the State Board of Education as to the causes of the failure and the remedies proposed to be undertaken. The

State Allocation Board shall render its opinion acting upon a written analysis prepared by the Office of Public School Construction. Any affected district may submit its own analysis as to the causes of the failure and remedies it proposes to be undertaken. After the public hearing, the State Board of Education shall adopt a remedial plan -- to ensure elimination of the Concept 6 calendar by the earliest practicable date and no later than July 1, 2012 -- that the district shall follow.

10. If the State Board of Education determines that a district's failure to achieve substantial progress or develop specific school building planning is due to circumstances beyond the control of the district and despite the district's good faith efforts, the Board's remedial plan may include the provision of technical assistance to the district from the Department of Education, the Office of Public School Construction and/or the Division of the State Architect. "Technical assistance" may include, but is not limited to, assistance in identifying and acquiring school sites, guidance in maximizing access to funding necessary to create alternative student housing, and facilitation of the process of obtaining state approval for new construction projects. The Board's remedial plan may also recommend action for state financial assistance necessary to enable the district to eliminate the Concept 6 calendar by the earliest date practicable and no later than July 1, 2012.

If the State Board of Education determines, however, that a district's failure to achieve substantial progress or develop specific school building planning is not due to circumstances beyond the control of the district, but due to its failure to act diligently to plan for the elimination of the Concept 6 calendar or to execute the plan, the Board's remedial plan must mandate regular (at least quarterly) review and oversight of the district's efforts by the State Department of Education. In the exercise of the Board's discretion, such review and oversight may be weekly, monthly, quarterly, or whatever other regular interval the Board deems appropriate. The Board's remedial plan may also include any of the measures described in the paragraph above or other such measures as it deems necessary to enable the district to eliminate the Concept 6 calendar by the earliest date practicable and no later than July 1, 2012.

If on or after July 1, 2009, the State Board of Education determines that a district's failure to achieve substantial progress or develop specific school building planning is not due to circumstances beyond the control of the district, but due to its failure to act diligently to plan for the elimination of the Concept 6 calendar and/or to execute the plan, the Board shall hold a public hearing to determine whether the Board should implement direct oversight of the district's facilities construction program. If, in the exercise of its discretion, the Board determines implementation of direct oversight is needed to ensure elimination of the Concept 6 calendar no later than July 1, 2012, the Board shall implement such oversight within 90 days of its determination.

Direct oversight by the Board of Education shall consist of assigning to the district a monitor, who shall report to the Board at each of its regularly scheduled meetings on progress made by the district in working towards the elimination of the Concept 6 calendar. The monitor shall have relevant experience in engineering, construction or management of major public works projects and shall have the resources and authority to contract with appropriate

professionals in the fields of program management, project management and finance. In selecting any monitor, the State Board of Education shall receive nominees from, and consult with, the superintendent of the district subject to the monitor, the Office of Public School Construction, and the bond oversight committee of such district as has been established under Education Code section 15278.

The Board-appointed monitor shall make recommendations to the district with respect to the planning and implementation of its school-building program. The district shall follow the recommendations of the monitor unless the district shows, to the satisfaction of the State Board of Education, good cause for not doing so. Any recommendation of the monitor that is mandatory, as opposed to prohibitory, shall be stayed during the time the district contests the recommendation before the State Board. The Board shall meet to hear and decide any such contest within 30 days of the district's submitting its contest. The monitor shall report to the State Board of Education regarding the district's implementation of the monitor's recommendations. The Board shall have the authority to direct the district to implement the monitor's recommendations in the absence of the district showing good cause for not doing so. Any order of the Board directing the district to implement the monitor's recommendations and any determination of the district's good cause in failing to implement such recommendation shall be made upon recommendation of the Office of Public School Construction, with reasonable notice to the district, at a meeting of the Board, with an opportunity for the district to show in writing or in oral testimony the grounds for its position. The monitor's reports shall be made available to the district's superintendent, governing board and bond oversight committee at least 10 days before the meeting of the Board at which they are presented and the district and the bond oversight committee shall be given an opportunity to address the Board regarding such reports.

11. "Circumstances beyond the control of the district" shall be strictly defined and interpreted and the definition shall include at minimum the following:

- a. any increase in student population beyond district demographic projections set forth in the district comprehensive action plan or any amendments to the plan shall constitute a circumstance beyond the control of the district only if the district can demonstrate that the increase was not reasonably foreseeable through the use of annual, informed re-estimation of demographic projections;
- b. any cost escalation, shortages in construction material or capacity, delay in completion of environmental reviews, or natural or human-made disaster materially affecting the district's facilities program shall constitute a circumstance beyond the control of the district only if the district can demonstrate that the delay or increased cost was not reasonably foreseeable and the district exercised due diligence in planning for such risk;
- c. lack of sufficient state or local funding to complete necessary school construction shall not constitute a circumstance beyond the control of the district unless the district can demonstrate that from July 1, 2004 to date, it has not approved the expenditure of any state or local funds designated for new school construction for any purpose other than the construction of additional school seats to reduce reliance on the Concept 6 calendar and such additional

education-related facilities as are reasonably necessary to construct a new school, with the exception of construction deemed eligible and necessary by the State Allocation Board for funding under 2 Cal. Code Regs. 1859.82(a)(1).

12. The Critically Overcrowded Schools program shall be amended to ensure that any project that will relieve overcrowding at a Concept 6 school will meet the definition of, and be eligible for funding, as a Critically Overcrowded School Facilities Program project.

13. Reports mandated of districts operating on a Concept 6 calendar shall be made available to the public, and all interested parties shall be permitted the opportunity to submit comments to such reports within a reasonable time following the reports' submission to the appropriate state agency.

COVENANT NOT TO SUE

COVENANT NOT TO SUE

It is hereby agreed between the Defendants (the State of California, the State Board of Education, the Superintendent of Public Instruction, the State Department of Education), and the representatives of the plaintiff class that:

1. Members of the plaintiff class shall be bound by a covenant not to sue the defendants on the claims pursued in *Williams v. State of California*, Case Number 312236 in the Superior Court in and for the City and County of San Francisco (“the Action”) for a period of four years from the date the Court grants final approval of the Settlement Agreement; subject to the conditions and exclusions in paragraphs 2 through 5 below.

2. Members of the plaintiff class shall be bound by a covenant not to sue the defendants for constitutional violations based on allegations as to deficiencies in the quality of teachers, with this covenant not to sue in effect for the following periods: (a) through September 30, 2006 (three months after the current compliance deadline for States under the No Child Left Behind Act) for claims with regard to public schools that are not subject to an extended compliance deadline under the No Child Left Behind Act for schools in rural settings (“Extended NCLB Deadline Schools”); and (b) for a period of four years from the date the Court grants final approval of the Settlement Agreement as to claims with regard to Extended NCLB Deadline Schools.

3. Actions pending as of August 9, 2004 brought by parties other than the named plaintiffs in the Action will not be affected by the covenant not to sue.

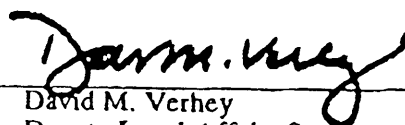
4. The covenant not to sue shall not apply to an action contesting the denial of graduation from High School based on the results of the High School Exit Examination.

5. If, after final approval of the settlement and during the period of the covenants, plaintiffs contend that the implemented settlement no longer Substantially Conforms to the Legislative Proposals because of actions by the defendants, plaintiffs shall consult with the State and Settling Intervenor and provide defendants with an opportunity to cure any alleged shortcoming by any means available, including fiscal, programmatic, or administrative solutions. After such consultation, plaintiffs may petition the Court to relieve them of the covenant not to sue, provided that such a petition shall be rejected absent clear and convincing evidence that affirmative actions of the defendants after enactment of the 2004 and/or 2004 Legislation caused the implemented settlement no longer to Substantially Conform to the Legislative Proposals. In addition, defendants shall not be required to respond to such a petition unless plaintiffs present a written offer of proof and obtain an order from the Court that the offer of proof is potentially sufficient to carry plaintiffs' ultimate burden as defined above.

Dated: August 12, 2004

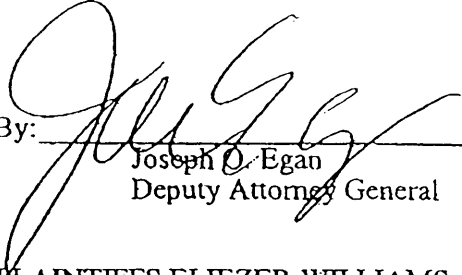
DEFENDANT THE STATE OF CALIFORNIA

By: _____


David M. Verhey
Deputy Legal Affairs Secretary
Office of Governor Arnold
Schwarzenegger

DEFENDANTS THE STATE
SUPERINTENDENT OF PUBLIC
INSTRUCTION, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF
EDUCATION

By: _____


Joseph O. Egan
Deputy Attorney General

PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
AD LITEM, ET AL., EACH INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED

By: _____

Jack W. Londen
Morrison & Foerster LLP

Mark D. Rosenbaum
Catherine E. Lhamon
Peter J. Eliasberg
ACLU Foundation Of Southern
California

Alan Schlosser
ACLU Foundation Of Northern
California

John T. Affeldt
Jenny P. Pearlman
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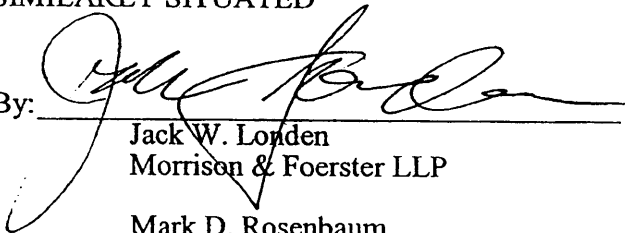
Thomas A. Saenz
Hector O. Villagra
Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs

DEFENDANTS THE STATE
SUPERINTENDENT OF PUBLIC
INSTRUCTION, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF
EDUCATION

By: _____
Joseph O. Egan
Deputy Attorney General

PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
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Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs

**PROVISION RE
ATTORNEYS' FEES**

PROVISION AS TO CLAIMS FOR ATTORNEYS' FEES

It is hereby agreed between the State of California and the representatives of the plaintiff class that:

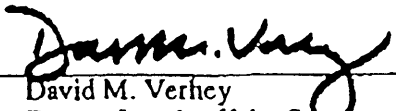
1. Plaintiffs' counsel will be entitled to recover reasonable attorneys' fees and costs from the State in an amount to be agreed between plaintiffs' counsel and the State or, if not agreed after consultation, to be determined by the Court. After dismissal of the Action in other respects the Court will retain jurisdiction to make that determination, if necessary.

2. Time and costs spent by all of plaintiffs' counsel, including Morrison & Foerster LLP, will be submitted to the Court to justify the amount of an award of attorneys' fees and costs if the Court is asked to determine the reasonableness of such an award. However, whether the amount is determined by agreement or Court award, the firm of Morrison & Foerster LLP will not seek to be paid for its time spent on the *Williams* case except for an amount, if the State agrees, that the firm will donate for charitable uses related to the goals of the settlement.

Dated: August 12, 2004

DEFENDANT THE STATE OF CALIFORNIA

By: _____


David M. Verhey
Deputy Legal Affairs Secretary
Office of Governor Arnold
Schwarzenegger

PLAINTIFFS ELIEZER WILLIAMS, A MINOR,
BY SWEETIE WILLIAMS, HIS GUARDIAN
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Thomas Saenz
Hector Villagra
Mexican American Legal Defense and
Educational Fund

Attorneys for Plaintiffs

EXHIBIT B

[Please click here to return to the previous page.](#)

Press Release



OFFICE OF THE GOVERNOR

GAAS:453:04
FOR IMMEDIATE RELEASE
09/29/2004

Governor Schwarzenegger Signs Landmark Education Reforms into Law

Governor Schwarzenegger has signed into law historic reforms that will shift funding control away from the bureaucracy in Sacramento and increase flexibility for local communities. The shift in control will allow communities to address the specific needs of their children without bureaucratic impediment.

Governor Schwarzenegger signed historic legislation to overhaul K-12 categorical program funding:

- AB 825 - Shifts significant control of education funding decisions from the state level to the local level. Specifically, the bill will mean consolidation of 26 existing categorical programs - totaling \$1.8 billion into six block grants.

"As I said during my State of the State Address, we must give local schools the power to meet the specific needs of their own communities," said Governor Schwarzenegger. "By consolidating these categoricals, we are reducing the bureaucratic red tape in Sacramento and empowering local communities to meet the specific needs of their students."

"Today Governor Schwarzenegger signed the most comprehensive education funding reforms in recent history," said Education Secretary Richard Riordan. "It will reduce state and local bureaucracy and provide meaningful flexibility for local school leaders to target education spending to best meet the needs of our students. Today, the Governor has shown that he is committed to listening to the needs of local education leaders, and to real reform that puts our schools and children first."

Additionally, the Governor signed laws implementing the settlement reached in the Williams vs. California case. These reforms will mean significant strides in ensuring that California's children have access to a quality education, qualified teachers, and have the tools they need to succeed in school.

- SB 550 & AB 2727 - Establishes minimum thresholds regarding school facilities, teacher quality, and instructional materials and an accountability structure to enforce these thresholds.
- AB 1550 - Puts an end to the shortened school-year calendar for some of the most over crowded schools, by putting an end to the year-round (Concept 6) academic schedule by July 1, 2012.
- AB 3001 - Ensures placement of qualified teachers in low performing schools and enhances an existing oversight mechanism to ensure teachers are appropriately qualified to teach the subject matter to which they have been assigned. Additionally, streamlines the process for highly qualified teachers from out-of-state to obtain jobs in California's schools.
- SB 6 - Provides up to \$800 million beginning with the '05-'06 fiscal year for districts to address emergency facility repair projects. Additionally, provides approximately \$25 million to assess the condition of school facilities in the bottom 3 deciles, commencing in '04-'05.

"Today is a landmark day for California's students," said Governor Schwarzenegger. "No issue is more important to me than education and these reforms truly put our children first. California is the greatest state in the nation, and we will make sure that our children will have the greatest public schools to meet their full potential."

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EXHIBIT C

Senate Bill No. 550

CHAPTER 900

An act to amend Sections 1240, 14501, 17002, 17014, 17032.5, 17070.15, 17070.75, 17087, 17089, 33126, 33126.1, 41020, 52055.625, 52055.640, 60119, 60240, and 60252 of, to add Sections 35186, 41344.4, and 52055.662 to, and to repeal Section 62000.4 of, the Education Code, and to amend Section 36 of Chapter 216 of the Statutes of 2004, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 550, Vasconcellos. Education.

(1) Existing law requires a county superintendent of schools, among other things, to visit and examine each school in the county to observe its operation and learn of its problems. Existing law authorizes the county superintendent to annually present a report on the state of the schools in the county to the board of education and the board of supervisors of the county.

This bill would require the county superintendent to annually present a report to the governing board of each school district under his or her jurisdiction and to the board of supervisors of the county describing the state of the schools in the county and of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, thereby imposing a state-mandated local program. The bill would require the county superintendent for the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, Sierra, and the City and County of San Francisco to contract with a neighboring county office of education or an independent auditor to conduct the required visits and make all required reports. The bill would make the priority objective of the visits to determine if there are sufficient textbooks, conditions of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff, and accurate data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, the safety, cleanliness, adequacy, and good repair of school facilities.

(2) Existing law requires a county superintendent of schools, among other things, to enforce the use of state textbooks and instructional

materials and of high school textbooks and instructional materials regularly adopted by the proper authority.

This bill would require the county superintendent, for purposes of enforcing the use of required textbooks and instructional materials, to specifically review at least annually schools that are ranked in any of deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index and that are not currently under review through a state or federal intervention program, thereby imposing a state-mandated local program. If the county superintendent determines that a school does not have sufficient textbooks or instructional materials, the bill would require the county superintendent to prepare a report that identifies and documents the areas or instances of noncompliance, provide a copy of the report to the school district, forward the report to the Superintendent of Public Instruction, and provide the school district with the opportunity to remedy the deficiency. If the deficiency is not remedied, the bill would require the county superintendent to request the State Department of Education, with approval by the State Board of Education, to purchase textbooks or instructional materials for the school. The bill would require that the funds necessary for the purchase be considered a loan to the school district to be repaid based upon an agreed-upon schedule with the Superintendent of Public Instruction, or by deducting an amount from the district's next principal apportionment or other apportionment of state funds. The bill would authorize the department to expend up to \$5,000,000 from the State Instructional Materials Fund to acquire instructional materials for school districts for purposes of these provisions.

(3) Existing law, the Leroy F. Greene State School Building Lease-Purchase Law of 1976, the Leroy F. Greene State School Building Lease-Purchase Law of 1998, and the State Relocatable Classroom Law of 1979, requires the State Allocation Board to require a school district that receives funds for a school construction or modernization project pursuant to those laws, to make all necessary repairs, renewals, and replacement to ensure that a project is at all times kept in good repair, working order, and condition.

Existing law requires the State Allocation Board to establish the annual rent and conditions to be met by a school district to which it leases portable classrooms and requires a school district to undertake all necessary repairs, renewals, and replacement to ensure that those portable classrooms are at all times kept in good repair, working order, and condition.

This bill would, as a condition of participation in the school facilities program and the receipt of funds pursuant to the deferred maintenance program, require a school district to establish a facilities inspection

system to ensure that each of its schools is in good repair, as defined in the bill.

(4) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits, and with representatives of other entities, to recommend the statements and other information to be included in the audit reports filed with the state by local educational agencies and to propose the content of an audit guide.

This bill would require a compliance audit to include the verification of the reporting requirements for the sufficiency of textbooks and instructional materials, teacher misassignments, and the accuracy of information reported on the school accountability report card.

(5) Existing law, the Classroom Instructional Improvement and Accountability Act, requires each school district to develop and implement a school accountability report card, as prescribed. The existing act prohibits any change to its provisions, except a change to further its purpose enacted by a bill passed by a vote of $\frac{2}{3}$ of the Legislature and signed by the Governor.

This bill would require the school accountability report card to include information regarding the availability of sufficient textbooks and other instructional materials for each pupil, any needed maintenance of school facilities to ensure good repair, the misassignments of teachers, including misassignments of English learner teachers, and the number of vacant teacher positions for the most recent 3-year period. The bill would define “misassignment” and “vacant position” for this purpose. By requiring school districts to include this additional information on the school accountability report card, the bill would impose a state-mandated local program. The bill would also provide that if the Commission on State Mandates finds a school district eligible for the reimbursement of costs incurred in complying with the requirements regarding the school accountability report card, the school district is to be reimbursed only if the information provided in the school accountability report card is accurate, as determined by a specified annual audit, or if the information is determined to be inaccurate, the information is corrected by May 15.

Existing law requires the State Department of Education to develop and recommend for adoption a standardized template for the school accountability report card and requires the standardized template to include fields for the insertion of data and information by the department and by local educational agencies.

This bill would require that template to also include a field to report the determination of the sufficiency of textbooks and instructional

materials and a summary statement of the condition of school facilities. The bill would require the department to provide examples of summary statements of the condition of school facilities that are acceptable and those that are unacceptable.

This bill would declare that these provisions further the purposes of the Classroom Instructional Improvement and Accountability Act.

(6) Existing regulations require each local educational agency to adopt policies and procedures for the investigation and resolution of complaints and require each local educational agency to include in its policies and procedures the person, employee, or agency position or unit responsible for receiving complaints, investigating complaints, and ensuring local educational agency compliance.

This bill would require a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean and safe manner or in good repair, and teacher vacancy or misassignment. The bill would require a notice to be posted in each classroom in each school in the school district notifying parents and guardians that there should be sufficient textbooks or instructional materials, school facilities must be clean, safe, and in good repair, and the location to obtain a form to file a complaint in case of a shortage. By requiring the posting of this notice, the bill would impose a state-mandated local program.

(7) Existing law requires a county superintendent of schools to provide for an audit of all funds under his or her jurisdiction and requires the governing board of a local educational agency to either provide for an audit of the books and accounts of the local educational agency or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing. Existing law requires a county superintendent of schools to be responsible for reviewing the audit exceptions contained in an audit of a local educational agency under his or her jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions were either corrected or an acceptable plan of correction was developed.

This bill would, commencing with the 2004–05 audit of local educational agencies, require the county superintendent of schools to include in the review of audit exceptions those audit exceptions related to use of instructional materials program funds, teacher misassignments, and information reported on the school accountability report card and to determine whether the exceptions are either corrected or an acceptable plan of correction developed, thereby imposing a state-mandated local program.

The bill would prohibit a local educational agency from being required to repay an apportionment based on a significant audit exception related to the verification of the sufficiency of textbooks and instructional materials, teacher misassignments, and the accuracy of the information reported on the school accountability report card if the county superintendent of schools certifies to the Superintendent of Public Instruction and the Controller that the audit exception was corrected or that an acceptable plan of correction was submitted to the county superintendent of schools.

(8) Existing law establishes, within the Public Schools Accountability Act of 1999, the High Priority Schools Grant Program and requires a school district participating in the program to develop a school action plan that includes 4 components: (a) pupil literacy and achievement, (b) quality of staff, (c) parental involvement, and (d) facilities, curriculum, instructional materials, and support services.

This bill would, for schools initially applying to participate in the program on or after the 2004–05 fiscal year, require the component of the school action plan on quality of staff to include highly qualified teachers and appropriately credentialed teachers for English learners. The bill would specify that the component on facilities, curriculum, instructional materials, and support services for those schools be on facilities in good repair, curriculum, sufficient instructional materials, and support services.

Existing law requires that a school receiving funds under the High Priority Schools Grant Program submit a report to the Superintendent of Public Instruction that includes, among other things, the availability of instructional materials in core content areas that are aligned with the academic content and performance standards for each pupil.

This bill would require schools initially applying to participate in the program on or after the 2004–05 fiscal year to measure the availability of instructional materials against a specified definition of “sufficient instructional materials.”

(9) Existing law requires the governing board of a school district to hold a public hearing and make a determination as to whether each pupil in each school in the district has or will have prior to the end of that fiscal year sufficient textbooks or instructional materials in each subject that are consistent with the content and cycles of the curriculum framework adopted by the State Board of Education.

This bill would instead require the determination to be as to whether each pupil in each school in the district has sufficient textbooks or instructional materials in each subject that are consistent with the content and cycles of the curriculum frameworks. The bill would require the hearing to be held at a time that will encourage the attendance of

teachers and parents and guardians of pupils who attend the schools in the district and would prohibit the hearing from taking place during or immediately following school hours. The bill would define “sufficient textbooks or instructional materials” to mean that each pupil, including English learners, has a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments but would specify that 2 sets of textbooks or instructional materials for each pupil are not required.

(10) Existing law repeals the Instructional Materials Program on June 30, 2006, and makes implementation of the program during the 2002–03 to 2005–06, inclusive, fiscal years contingent on funding in the annual Budget Act.

This bill would delete the date of repeal and the contingent implementation of the program.

(11) Existing law appropriated \$138,000,000 from the General Fund to the State Department of Education for transfer to the Instructional Materials Fund.

This bill would make technical changes to that appropriation and would make other conforming changes.

(12) This bill would appropriate \$20,200,000 from the General Fund to the State Department of Education and, of that amount \$5,000,000 would be appropriated for transfer to the State Instructional Materials Fund for purposes of acquiring instructional materials, as specified, \$15,000,000 would be appropriated for allocation to county offices of education for review and monitoring of schools, as specified, and \$200,000 would be appropriated for purposes of implementing this act.

The funds appropriated by the bill for purposes of acquiring instructional materials and for review and monitoring activities 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.

(13) The bill would state that the intent of the Legislature in enacting this act is to implement the settlement agreement in the case of *Williams v. State of California*.

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

Appropriation: yes.

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

SECTION 1. Section 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 may annually 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) To the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, shall annually present a report 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, as defined in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools.

(B) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, 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.

(C) The results of the visit shall be reported to the governing board of the school district on a quarterly basis at a regularly scheduled meeting held in accordance with public notification requirements.

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

(i) Not disrupt 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.

(E) 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 as defined by 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.

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

(e) Annually present a report to the governing board of the school district and the Superintendent of Public Instruction regarding the fiscal solvency of any school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined at any time 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 of Public Instruction.

(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 any 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.

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

(3) If a school is ranked in any of deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, and is not currently under review through a state or federal intervention program, the county superintendent shall specifically review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be conducted within the first four weeks 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.

(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), and forward the report to the Superintendent of Public Instruction.

(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, with approval by the State Board of Education, to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the state board approves a recommendation from the department to purchase textbooks or instructional materials for the school district, the board shall issue a public statement at a regularly scheduled meeting 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 to the purchase 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 of Public Instruction, the Superintendent of Public

Instruction 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 of schools 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 of Public Instruction, 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 any county office of education that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to any 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 any 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 of Public Instruction may reclassify any certification. If a county office of education receives a negative certification, the Superintendent of Public Instruction, 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 of Public Instruction 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.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent of Public Instruction, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent of schools to any 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 of Public Instruction.

(4) The county superintendent of schools 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 any certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of any educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent of schools discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of any educational program has been reported.

SEC. 2. Section 14501 of the Education Code is amended to read:

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

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

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

(2) Teacher misassignments pursuant to Section 44258.9.

(3) The accuracy of information reported on the School Accountability Report Card required by Section 33126. The requirements set forth in paragraphs (1) and (2) and this paragraph shall be added to the audit guide requirements pursuant to subdivision (b) of Section 14502.1.

SEC. 3. Section 17002 of the Education Code is amended to read:
17002. The following terms wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Apportionment" means a reservation of funds necessary to finance the cost of any project approved by the board for lease to an applicant school district.

(b) "Board" means the State Allocation Board.

(c) "Cost of project" includes, but is not limited to, the cost of all real estate property rights, and easements acquired, and the cost of developing the site and streets and utilities immediately adjacent thereto, the cost of construction, reconstruction, or modernization of buildings and the furnishing and equipping, including the purchase of educational technology hardware, of those buildings, the supporting wiring and cabling, and the technological modernization of existing buildings to support that hardware, the cost of plans, specifications, surveys, and estimates of costs, and other expenses that are necessary or incidental to the financing of the project. For purposes of this section, "educational technology hardware" includes, but is not limited to, computers, telephones, televisions, and video cassette recorders.

(d) (1) "Good repair" means the facility is maintained in a manner that assures that it is clean, safe, and functional as determined pursuant to an interim evaluation instrument developed by the Office of Public School Construction. The instrument shall not require capital enhancements beyond the standards to which the facility was designed and constructed.

(2) By January 25, 2005, the Office of Public School Construction shall develop the interim evaluation instrument based on existing prototypes and shall consult with county superintendents of schools and school districts during the development of the instrument. The Office of Public School Construction shall report and make recommendations to the Legislature and Governor not later than December 31, 2005, regarding options for state standards as an alternative to the interim evaluation instrument developed pursuant to paragraph (1). By September 1, 2006, the Legislature and Governor shall, by statute, determine the state standard that shall apply for subsequent fiscal years.

(e) "Lease" includes a lease with an option to purchase.

(f) "Project" means the facility being constructed or acquired by the state for rental to the applicant school district and may include the reconstruction or modernization of existing buildings, construction of new buildings, the grading and development of sites, acquisition of sites therefor and any easements or rights-of-way pertinent thereto or

necessary for its full use including the development of streets and utilities.

(g) "Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

SEC. 4. Section 17014 of the Education Code is amended to read:

17014. (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 kept 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 encourage applicants to maintain all buildings under their control, the board shall require the applicant to do all of the following prior to 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 regular maintenance and routine repair of school buildings, according the highest priority to funding for the purpose set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for the term of the lease agreements of all projects constructed under this chapter, a minimum amount equal to or greater than 2 percent of the general fund budget of the applicant district for that fiscal year. This paragraph is applicable only to the following districts:

(A) High school districts with average daily attendance greater than 300.

(B) Elementary school districts with average daily attendance greater than 900.

(C) Unified school districts with average daily attendance greater than 1,200.

(c) For each project funded after July 1, 1998, the board shall require the applicant school district governing board to certify, as part of the annual budget process of the school district and beginning in the fiscal year in which the project is funded by the state, that a plan has been prepared for completing major maintenance, repair, and replacement requirements for the project. For purposes of this subdivision, the term "major maintenance, repair, and replacement" means roofing, siding, painting, floor and window coverings, fixtures, cabinets, heating and cooling systems, landscaping, fences, and other items designated by the governing board of the school district. The board shall require the school district's governing board to certify that the plan includes and is being implemented as follows:

(1) Identification of the major maintenance, repair, and replacement needs for the project.

(2) Specification of a schedule for completing the major maintenance, repair, and replacement needs.

(3) Specification of a current cost estimate for the scheduled major maintenance, repair, and replacement needs.

(4) Specification of the school district's schedule for funding a reserve to pay for the scheduled major maintenance, repair, and replacement needs.

(5) Review of the plan annually, as a part of the annual budget process of the school district, and update, as needed, the major maintenance, repair, and replacement needs, the estimates of expected costs, and any adjustments in funding the reserve.

(6) Availability for public inspection of the original plan, and all updated versions of the plan, at the office of the superintendent of the school district during the working hours of the school district.

(7) Provision in the annual budget of the school district of a provision that states the total funding available in reserve for scheduled major maintenance, repair and replacement needs as specified in the updated plan, and an explanation if this amount is less than that specified in the updated plan. The reserve shall be maintained in the restricted account established pursuant to subdivision (b).

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

SEC. 5. Section 17032.5 of the Education Code is amended to read:

17032.5. (a) The board shall establish the annual rent and conditions to be met by the lessee of a portable classroom leased pursuant to Section 17717.2 and shall require lessees to undertake all necessary maintenance, repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

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

SEC. 6. Section 17070.15 of the Education Code is amended to read:

17070.15. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Apportionment" means a reservation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board for an applicant school district.

(b) “Attendance area” means the geographical area serving an existing high school and those junior high schools and elementary schools included therein.

(c) “Board” means the State Allocation Board as established by Section 15490 of the Government Code.

(d) “Committee” means the State School Building Finance Committee established pursuant to Section 15909.

(e) “County fund” means a county school facilities fund established pursuant to Section 17070.43.

(f) “Department” means the Department of General Services.

(g) “Fund” means the applicable 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, established pursuant to Section 17070.40.

(h) “Good repair” has the same meaning as specified in subdivision (d) of Section 17002.

(i) “Modernization” means any modification of a permanent structure that is at least 25 years old, or in the case of a portable classroom, that is at least 20 years old, that will enhance the ability of the structure to achieve educational purposes.

(j) “Portable classroom” means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

(k) “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

(l) “School building capacity” means the capacity of a school building to house pupils.

(m) “School district” means a school district or a county office of education. For purposes of determining eligibility under this chapter, “school district” may also mean a high school attendance area.

SEC. 7. 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 prior to 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).

(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. Annual deposits to the account established pursuant to paragraph (1) in excess of $2\frac{1}{2}$ percent of the school district general fund budget may count towards the amount of funds required to be contributed by a school district in order to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that those funds are used for purposes that qualify for funding under that section.

(B) Notwithstanding subparagraph (A), for the 2004–05 fiscal year only, an applicant school district shall deposit into the account established pursuant to paragraph (1), no less than 2 percent of the total general fund expenditures of the school district, including other financing uses, for the fiscal year. The annual deposit to the account in excess of $1\frac{1}{2}$ percent of the school district general fund budget for the 2004–05 fiscal year may count towards the amount that a school district is required to contribute in order to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that those funds are used for purposes that qualify for funding under that section.

(C) 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.

(D) 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.

(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. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.

(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 3 percent maintenance requirement shall be based upon the county office of education general fund less any restricted accounts.

(e) As a condition of participation in the school facilities program or the receipt of funds pursuant to Section 17582, 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.

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

SEC. 8. Section 17087 of the Education Code is amended to read: 17087. As used in this chapter:

(a) “Board” means the State Allocation Board.

(b) “Good repair” has the same meaning as specified in subdivision (d) of Section 17002.

(c) “Lessee” means a school district or county superintendent of schools to whom the board has leased a portable classroom pursuant to this chapter.

(d) “State School Building Aid Fund” means that fund established pursuant to Section 16096.

SEC. 9. Section 17089 of the Education Code is amended to read:

17089. (a) The board shall lease portable classrooms to qualifying school districts and county superintendents of schools for not less than one dollar (\$1) per year, nor more than four thousand dollars (\$4,000) per year, for each portable classroom. This amount shall be annually increased according to the adjustment for inflation set forth in the statewide cost index for classroom construction, as determined by the board at its January meeting.

(b) The board shall require each lessee to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

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

SEC. 10. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which a parent can make meaningful comparisons between public schools that will enable him or her to make informed decisions on which school to enroll his or her children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period.

(A) For purposes of this paragraph, "vacant teacher position" means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

(B) For purposes of this paragraph, "misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(6) (A) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and are adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(B) The availability of sufficient textbooks and other instructional materials, as defined in Section 60119, for each pupil, including English learners, in each of the following areas:

(i) The core curriculum areas of reading/language arts, mathematics, science, and history/social science.

(ii) Foreign language and health.

(iii) Science laboratory equipment for grades 9 to 12, inclusive, as appropriate.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as specified in Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admissions test preparation course program.

(25) When available from the department, the claiming rate of pupils who earned a Governor's Scholarship Award pursuant to subdivision (a) of Section 69997 for the most recent two-year period. This paragraph applies only to schools that enroll pupils in grade 9, 10 or 11.

(c) If the Commission on State Mandates finds a school district is eligible for a reimbursement of costs incurred complying with this

section, the school district shall be reimbursed only if the information provided in the school accountability report card is accurate, as determined by the annual audit performed pursuant to Section 41020. If the information is determined to be inaccurate, the school district is not ineligible for reimbursement if the information is corrected by May 15.

(d) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 11. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The department shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the department and by local educational agencies, including a field to report the determination of the sufficiency of textbooks and instructional materials, as defined in Section 60119, and a summary statement of the condition of school facilities, as defined in Section 17014, Section 17032.5, subdivision (a) of Section 17070.75, and subdivision (b) of Section 17089. The department shall provide examples of summary statements of the condition of school facilities that are acceptable and those that are unacceptable. When the template for a school is completed, it should enable parents and guardians to compare the manner in which local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the department shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the department will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the department shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the department has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the department.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The department shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The department shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The department shall annually post, on the Internet, each eligible school's claiming rate of pupils who earned an award for either of the programs established by subdivision (a) of Section 69997. The Scholarshare Investment Board shall provide the claiming rates, for the most recent two-year period, for each eligible school to the department by June 30 of each year. Schools shall post their claiming rate, required in paragraph (25) of subdivision (b) of Section 33216, from the Internet site of the department.

(i) The department shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their Web sites to the department.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c).

(k) The department shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The department shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

SEC. 12. Section 35186 is added to the Education Code, to read:

35186. (a) A school district shall use the uniform complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, the condition of a facility that is not maintained in a clean or safe manner or in good repair, and teacher vacancy or misassignment.

(1) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. All complaints and responses are public records.

(2) The complaint form shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

(3) A complaint shall be filed with the principal of the school or his or her designee. A complaint about problems beyond the authority of the school principal shall be forwarded in a timely manner but not to exceed 10 working days to the appropriate school district official for resolution.

(b) The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. The principal or designee of the district

superintendent shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The principal or designee of the district superintendent shall report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the principal makes this report, the principal shall also report the same information in the same timeframe to the designee of the district superintendent.

(c) A complainant not satisfied with the resolution of the principal or the designee of the district superintendent has the right to describe the complaint to the governing board of the school district at a regularly scheduled hearing of the governing board. As to complaints involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of Section 17592.72, a complainant who is not satisfied with the resolution proffered by the principal or the designee of the district superintendent has the right to file an appeal to the Superintendent of Public Instruction, who shall provide a written report to the State Board of Education describing the basis for the complaint and, as appropriate, a proposed remedy for the issue described in the complaint.

(d) A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

(e) The procedure required pursuant to this section is intended to address all of the following:

(1) A complaint related to instructional materials as follows:

(A) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state adopted or district adopted textbooks or other required instructional material to use in class.

(B) A pupil does not have access to instructional materials to use at home or after school in order to complete required homework assignments.

(C) Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(2) A complaint related to teacher vacancy or misassignment as follows:

(A) A semester begins and a certificated teacher is not assigned to teach the class.

(B) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class. This subparagraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(C) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

(3) A complaint related to the condition of facilities.

(f) In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the school district notifying parents and guardians of the following:

(1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments.

(2) School facilities must be clean, safe, and maintained in good repair.

(3) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Web site of the department shall satisfy this requirement.

(g) A local educational agency shall establish local policies and procedures, post notices, and implement this section on or before January 1, 2005.

(h) For purposes of this section, the following definitions apply:

(1) "Good repair" has the same meaning as specified in subdivision (d) of Section 17002.

(2) "Misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(3) "Teacher vacancy" means a vacant teacher position as defined in subparagraph (A) of paragraph (5) of subdivision (b) of Section 33126.

SEC. 13. Section 41020 of the Education Code is amended to read:

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

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

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

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

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

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

(c) Each audit conducted in accordance with this section shall include all funds of the local educational agency, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the local educational agency. Each audit shall also include an audit of pupil attendance procedures.

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

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

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

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

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

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

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

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

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

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

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

(C) Each local education agency's audit shall include an auditor's evaluation on whether there is substantial doubt about the local agency's ability to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement of Auditing Standards

(SAS) No. 59, as issued by the AICPA regarding disclosure requirements relating the entity's ability to continue as a going concern.

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

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

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

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

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

(1) Review audit exceptions related to attendance, inventory of equipment, internal control, and other miscellaneous exceptions. Attendance exceptions or issues shall include, but not be limited to, those related to revenue limits, adult education, and independent study.

(2) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, then the county

superintendent of schools shall notify the local educational agency and request the governing board of the local educational agency to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

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

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

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

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

(A) All federal and state compliance audit exceptions identified in the audit.

(B) Any exceptions that the county superintendent certifies as of May 15 have not been corrected.

(C) Any repeat audit exceptions that are not assigned to a county superintendent to correct.

(2) In addition, the Superintendent of Public Instruction shall be responsible for ensuring that county superintendents of schools and each county board of education that serves as the governing board of a local educational agency either correct all audit exceptions identified in the audits of county superintendents of schools and of the local educational agencies for which the county boards of education serve as the governing boards or develop acceptable plans of correction for those exceptions.

(3) The Superintendent of Public Instruction shall report annually to the Controller on his or her actions to ensure that school districts, county superintendents of schools, and each county board of education that serves as the governing board of a school district have either corrected or developed plans of correction for any of the exceptions noted pursuant to paragraph (1).

(n) To facilitate correction of the exceptions identified by the audits issued pursuant to this section, commencing with 2002–03 audits pursuant to this section, the Controller shall require auditors to categorize audit exceptions in each audit report in a manner that will make it clear to both the county superintendent of schools and the Superintendent of Public Instruction which exceptions they are responsible for ensuring the correction of by a local educational agency. In addition, the Controller annually shall select a sampling of county superintendents of schools and perform a followup of the audit resolution process of those county superintendents of schools and report the results of that followup to the Superintendent of Public Instruction and the county superintendents of schools that were reviewed.

(o) County superintendents of schools shall adjust subsequent local property tax requirements to correct audit exceptions relating to local educational agency tax rates and tax revenues.

(p) If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for the audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of the audit shall be paid from local educational agency funds or the county school service fund, as the case may be.

(q) Audits of regional occupational centers and programs are subject to the provisions of this section.

(r) This section does not authorize examination of, or reports on, the curriculum used or provided for in any local educational agency.

(s) Notwithstanding any other provision of law, a nonauditing, management, or other consulting service to be provided to a local educational agency by a certified public accounting firm while the certified public accounting firm is performing an audit of the agency pursuant to this section must be in accord with Government Accounting

Standards, Amendment No. 3, as published by the United States General Accounting Office.

SEC. 14. Section 41344.4 is added to the Education Code, to read:

41344.4. Notwithstanding any other provision of law, a local educational agency is not required to repay an apportionment based on a significant audit exception related to the requirements specified in paragraphs (1), (2), and (3) of subdivision (b) of Section 14501 if the county superintendent of schools certifies to the Superintendent of Public Instruction and the Controller that the audit exception was corrected by the local educational agency or that an acceptable plan of correction was submitted to the county superintendent of schools pursuant to subdivision (k) of Section 41020. With respect to textbooks and instructional materials, the plan shall be consistent with the requirements of subparagraph (A) of paragraph (2) of subdivision (a) of Section 60119.

SEC. 15. Section 52055.625 of the Education Code is amended to read:

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not be required to adopt all of the listed options as a condition of funding under the terms of this section. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of high-priority pupils.

(b) (1) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff.

(C) Parental involvement.

(D) Facilities, curriculum, instructional materials, and support services.

(2) As a condition of the receipt of funds, a school action plan for a school initially applying to participate in the program on or after the 2004–05 fiscal year, shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff, including highly qualified teachers, as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and appropriately credentialed teachers for English learners.

(C) Parental involvement.

(D) Facilities maintained in good repair as specified in Sections 17014, 17032.5, 17070.75, and 17089, curriculum, instructional

materials that are, at a minimum, consistent with the requirements of Section 60119, and support services.

(c) (1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the State Board of Education as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on API results by the end of the implementation period.

(C) English language learners at the school will demonstrate increased performance based on the English language development test required by Section 60810 and the achievement tests required pursuant to Section 60640.

(2) To achieve the goals in paragraph (1), a school in its action plan may include, among other things, any of the following options:

(A) Selective class size reduction in key curricular areas provided this does not result in a decrease in the proportion of experienced credentialed teachers at the schoolsite.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) Targeted intensive reading instruction utilizing reading capacity-level materials that may include, but are not limited to, the following strategies:

(i) The development of a reading competency program for pupils in grades 5 to 8, inclusive, whose reading scores are at or below the 40th percentile or in the two lowest performance levels, as adopted by the State Board of Education, on the reading portion of the achievement test, authorized by Section 60640. This program may include direct instruction in reading at grade level utilizing the English language arts content standards adopted pursuant to Section 60605. Additionally, this program may offer specialized intervention that utilizes state approved instructional materials adopted pursuant to Section 60200. It is the intent of the Legislature, as a recommendation, that this curriculum consist of at least one class period during the regular schoolday taught by a teacher trained in the English language arts standards pursuant to Section 60605. It is also the intent of the Legislature, as a recommendation, that periodic assessments throughout the year be conducted to monitor the progress of the pupils involved.

(ii) The use of a library media teacher to work cooperatively with every teacher and principal at the schoolsite to develop and implement an independent and free reading program, help teachers determine a pupil's reading level, order books that have been determined to meet the needs of pupils, help choose books at pupils' independent reading levels, and assure that pupils read a variety of genres across all academic content areas. For purposes of this article, "library media teacher" means a classroom teacher who possesses or is in the process of obtaining a library media teacher services credential consistent with Section 44868.

(D) Mentoring programs for pupils.

(E) Community, business, or university partnerships with the school.

(d) (1) The quality of staff component shall contain a strategy to attract, retain, and fairly distribute the highest quality staff at the school, including teachers, administrators, and support staff. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) An increase in the number of credentialed teachers working at that schoolsite.

(B) An increase in or targeting of professional development opportunities for teachers related to the goals of the action plan and English language development standards adopted by the State Board of Education aligned with the academic content and performance standards, including, but not limited to, participation in professional development institutes established pursuant to Article 2 (commencing with Section 92220) of Chapter 5 of Part 65.

(C) By the end of the implementation period, successful completion by the schoolsite administrators of a program designed to maximize leadership skills.

(2) To achieve the goals in paragraph (1) a school may include in its action plan, among others, any of the following options:

(A) Incentives to attract credentialed teachers and quality administrators to the schoolsite, including, but not limited to, additional compensation strategies similar to those authorized pursuant to Section 44735.

(B) A school district preintern or intern program within which eligible emergency permit teachers located at the schoolsite would be required to participate, unless those individuals are already participating in another teacher preparation program that leads to the attainment of a valid California teaching credential.

(C) Common planning time for teachers, administrators, and support staff focused on improving pupil achievement.

(D) Mentoring for site administrators, peer assistance for credentialed teachers, and support services for new teachers, including,

but not limited to, the Beginning Teacher Support and Assessment System.

(E) Providing assistance and incentives to teachers for completion of professional certification programs and toward attaining BCLAD or CLAD certification.

(F) Increasing professional development in state academic content and performance standards, including English language development standards.

(e) (1) The parental involvement component shall contain a strategy to change the culture of the school community to recognize parents and guardians as partners in the education of their children and to prepare and educate parents and guardians in the learning and academic progress of their children. At a minimum, this strategy shall include a commitment to develop a school-parent compact as required by Section 51101 and a plan to achieve the goal of maintaining or increasing the number and frequency of personal parent and guardian contacts each year at the schoolsite and school-home communications designed to promote parent and guardian support for meeting state standards and core curriculum requirements.

(2) To achieve the goals in subdivision (a), a school may in its action plan include, among others, any of the following options:

(A) Parent and guardian homework support classes.

(B) A program of regular home visits.

(C) After school and evening opportunities for parents, guardians, and pupils to learn together.

(D) Training programs to educate parents and guardians about state standards and testing requirements, including the high school exit examination.

(E) Creation, maintenance, and support of parent centers located on schoolsites to educate parents and guardians regarding pupil expectations and provide support to parents and guardians in their efforts to help their children learn.

(F) Programs targeted at parents and guardians of special education pupils.

(G) Efforts to develop a culture at the schoolsite focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.

(H) Providing more bilingual personnel at the schoolsite and at school related functions to communicate more effectively with parents and guardians who speak a language other than English.

(I) Providing an opportunity for parents to monitor online, if the technology is available, and in compliance with applicable state and

federal privacy laws, the academic progress and attendance of their children.

(f) (1) The facilities, curriculum, instructional materials, and support services component shall contain a strategy to provide an environment that is conducive to teaching and learning and that includes the development of a high-quality curriculum and instruction aligned with the academic content and performance standards adopted pursuant to Section 60605 and the standards for English language development adopted pursuant to Section 60811 to measure progress made towards achieving English language proficiency. At a minimum, this strategy shall include the goal of providing adequate logistical support including, but not limited to, curriculum, quality instruction, instructional materials, support services, and supplies for every pupil.

(2) To achieve the goal specified in paragraph (1), a school in its action plan may include, among others, any of the following options:

(A) State and locally developed valid and reliable assessments based on state academic content standards.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) The addition of more pupil support services staff, including, but not limited to, paraprofessionals, counselors, library media teachers, nurses, psychologists, social workers, speech therapists, audiologists, and speech pathologists.

(D) Pupil support centers for additional tutoring or homework assistance.

(E) Use of most current standards-aligned textbooks adopted by the State Board of Education, including materials for English language learners.

(F) For secondary schools, offering advanced placement courses and courses that meet the requirements for admission to the University of California or the California State University.

(g) A school action plan to improve pupil performance that is developed for participation in the program established pursuant to this article shall meet the requirements of subdivisions (d) and (e) of Section 52054 and this article.

SEC. 16. Section 52055.640 of the Education Code is amended to read:

52055.640. (a) As a condition of the receipt of funds for the initial and each subsequent year of funding pursuant to this article and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the progress made towards achieving English language proficiency as measured by the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners. Schools initially applying to participate in the program on or after the 2004–05 fiscal year shall measure the availability of instructional materials against the definition of “sufficient instructional materials” set forth in subdivision (c) of Section 60119.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

(b) The report on the pupil literacy and achievement component shall be disaggregated by numerically significant subgroups, as defined in Section 52052, and English language learners and have a focus on improved scores in reading and mathematics as measured by the following:

(1) The Academic Performance Index, including the data collected pursuant to tests that are part of the Standardized Testing and Reporting Program and the writing sample that is part of that program.

(2) The results of the primary language test pursuant to Section 60640.

(3) Graduation rates, when the methodology for collecting this data has been confirmed to be valid and reliable.

(4) In addition, a school may use locally developed assessments to assist it in determining the pupil progress in academic literacy and achievement.

(c) The report on the quality of staff component shall include, but not be limited to, the following information:

(1) The number of teachers at the schoolsite holding a valid California teaching credential or district or university intern certificate or credential

compared to those teachers at the same schoolsite holding a preintern certificate, emergency permit, or waiver.

(2) The number and ratio of teachers across the district holding a valid California teaching credential or district or university intern certificate or credential compared to those holding a preintern certificate, emergency permit, or waiver.

(3) The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school's progress towards achieving those goals.

SEC. 17. Section 52055.662 is added to the Education Code, to read:

52055.662. It is the intent of the Legislature to appropriate any savings achieved as a result of schools being phased out of the Immediate Intervention Underperforming School Program and the High Priority Schools Grant Program to provide High Priority Schools Grant awards to eligible schools, pursuant to Section 52055.605, that have not previously received a grant under this program.

SEC. 18. Section 60119 of the Education Code is amended to read:

60119. (a) In order to be eligible to receive funds available for the purposes of this article, the governing board of a school district shall take the following actions:

(1) (A) The governing board shall hold a public hearing or hearings at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders, and shall make a determination, through a resolution, as to whether each pupil in each

school in the district has sufficient textbooks or instructional materials, or both, in each of the following subjects, as appropriate, that are consistent with the content and cycles of the curriculum framework adopted by the state board:

- (i) Mathematics.
- (ii) Science.
- (iii) History-social science.
- (iv) English/language arts, including the English language development component of an adopted program.

(B) The public hearing shall take place on or before the end of the eighth week from the first day pupils attend school for that year. A school district that operates schools on a multitrack, year-round calendar shall hold the hearing on or before the end of the eighth week from the first day pupils attend school for that year on any tracks that begin a school year in August or September. For purposes of the 2004–05 fiscal year only, the governing board of a school district shall make a diligent effort to hold a public hearing pursuant to this section on or before December 1, 2004.

(C) As part of the hearing required pursuant to this section, the governing board shall also make a written determination as to whether each pupil enrolled in a foreign language or health course has sufficient textbooks or instructional materials that are consistent with the content and cycles of the curriculum frameworks adopted by the state board for those subjects. The governing board shall also determine the availability of laboratory science equipment as applicable to science laboratory courses offered in grades 9 to 12, inclusive. The provision of the textbooks, instructional materials or science equipment specified in this subparagraph is not a condition of receipt of funds provided by this subdivision.

(2) (A) If the governing board determines that there are insufficient textbooks or instructional materials, or both, the governing board shall provide information to classroom teachers and to the public setting forth, for each school in which an insufficiency exists, the reasons that each pupil does not have sufficient textbooks or instructional materials, or both, and take any action, except an action that would require reimbursement by the Commission on State Mandates, to ensure that each pupil has sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination is made.

(B) In carrying out subparagraph (A), the governing board may use money in any of the following funds:

(i) Any funds available for textbooks or instructional materials, or both, from categorical programs, including any funds allocated to school districts that have been appropriated in the annual Budget Act.

(ii) Any funds of the school district that are in excess of the amount available for each pupil during the prior fiscal year to purchase textbooks or instructional materials, or both.

(iii) Any other funds available to the school district for textbooks or instructional materials, or both.

(b) The governing board shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district. The hearing shall be held at a time that will encourage the attendance of teachers and parents and guardians of pupils who attend the schools in the district and shall not take place during or immediately following school hours.

(c) (1) For purposes of this section, "sufficient textbooks or instructional materials" means that each pupil, including English learners, has a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments. This paragraph does not require two sets of textbooks or instructional materials for each pupil.

(2) Sufficient textbooks or instructional materials as defined in paragraph (1), does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(d) Except for purposes of Section 60252, governing boards of school districts that receive funds for instructional materials from any state source, are subject to the requirements of this section only in a fiscal year in which the Superintendent of Public Instruction determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

SEC. 19. Section 60240 of the Education Code is amended to read:

60240. (a) The State Instructional Materials Fund is hereby continued in existence in the State Treasury. The fund shall be a means of annually funding the acquisition of instructional materials as required by the Constitution of the State of California. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years for carrying out the purposes of this part. It is the intent of the Legislature that the fund shall provide for flexibility of instructional materials, including classroom library materials.

(b) The State Department of Education shall administer the fund under policies established by the state board.

(c) (1) The state board shall encumber part of the fund to pay for accessible instructional materials pursuant to Sections 60312 and 60313 to accommodate pupils who are visually impaired or have other disabilities and are unable to access the general curriculum.

(2) The state board may encumber funds, in an amount not to exceed two hundred thousand dollars (\$200,000), for replacement of instructional materials, obtained by a school district with its allowance that are lost or destroyed by reason of fire, theft, natural disaster, or vandalism.

(3) The state board may encumber funds for the costs of warehousing and transporting instructional materials it has acquired.

(d) The department may expend up to five million dollars (\$5,000,000) from the fund to acquire instructional materials for school districts pursuant to subdivision (i) of Section 1240. The fund shall be replenished by amounts repaid by school districts or deducted from apportionments to school districts by the Controller pursuant to subdivision (i) of Section 1240.

SEC. 20. Section 60252 of the Education Code is amended to read:

60252. (a) The Pupil Textbook and Instructional Materials Incentive Account is hereby created in the State Instructional Materials Fund, to be used for the Pupil Textbook and Instructional Materials Incentive Program set forth in Article 7 (commencing with Section 60117) of Chapter 1. All money in the account shall be allocated by the Superintendent of Public Instruction to school districts maintaining any kindergarten or any of grades 1 to 12, inclusive, that satisfy each of the following criteria:

(1) A school district shall provide assurance to the Superintendent of Public Instruction that the district has complied with Section 60119.

(2) A school district shall ensure that the money will be used to carry out its compliance with Section 60119 and shall supplement any state and local money that is expended on textbooks or instructional materials, or both.

(3) A school district shall ensure that textbooks and instructional materials are ordered, to the extent practicable, before the school year begins.

(b) The superintendent shall ensure that each school district has an opportunity for funding per pupil based upon the district's prior year base revenue limit in relation to the prior year statewide average base revenue limit for similar types and sizes of districts. Districts below the statewide average shall receive a greater percentage of state funds, and districts above the statewide average shall receive a smaller percentage of state funds, in an amount equal to the percentage that the district's base revenue limit varies from the statewide average. Any district with a base

revenue limit that equals or exceeds 200 percent of the statewide average shall not be eligible for state funding under this section.

SEC. 21. Section 62000.4 of the Education Code is repealed.

SEC. 22. Section 36 of Chapter 216 of the Statutes of 2004 is amended to read:

Sec. 36. (a) The sum of nine hundred fifteen million four hundred forty-one thousand dollars (\$915,441,000) is hereby appropriated from the General Fund in accordance with the following schedule:

(1) The following amounts are appropriated for the 2005–06 fiscal year:

(A) The sum of five million nine hundred thirty-three thousand dollars (\$5,933,000) to the State Department of Education for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2004.

(B) The sum of eighty-five million eight hundred sixty-six thousand dollars (\$85,866,000) to the State Department of Education for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2004. Of the amount appropriated by this subparagraph, forty-eight million six hundred fifty-two thousand dollars (\$48,652,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2004, eleven million seven hundred forty-nine thousand dollars (\$11,749,000) shall be expended consistent with Schedule (2) of that item, four million four hundred sixty-nine thousand dollars (\$4,469,000) shall be expended consistent with Schedule (3) of that item, and twenty million nine hundred ninety-six thousand dollars (\$20,996,000) shall be expended consistent with Schedule (4) of that item.

(C) The sum of thirty-seven million fifty-one thousand dollars (\$37,051,000) to the State Department of Education for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2004.

(D) The sum of fifty million one hundred three thousand dollars (\$50,103,000) to the State Department of Education for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2004.

(E) The sum of four million ninety-two thousand dollars (\$4,092,000) to the State Department of Education for the Gifted and Talented Pupil Program to be expended consistent with the requirements

specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2004.

(F) The sum of ninety-five million three hundred ninety-seven thousand dollars (\$95,397,000) to the State Department of Education for Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-132-0001 of Section 2.00 of the Budget Act of 2004.

(G) The sum of forty-two million nine hundred fifty-nine thousand dollars (\$42,959,000) to the State Department of Education for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2004.

(H) The sum of four million five hundred fifty-eight thousand dollars (\$4,558,000) to the State Department of Education for community day schools to be expended consistent with the requirements specified in Item 6110-190-0001 of Section 2.00 of the Budget Act of 2004.

(I) The sum of five million two hundred ninety-eight thousand dollars (\$5,298,000) to the State Department of Education for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 of the Budget Act of 2004.

(J) The sum of thirty-six million eight hundred ninety-four thousand dollars (\$36,894,000) to the State Department of Education for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of 2004.

(K) The sum of two hundred million dollars (\$200,000,000) to the Board of Governors of the California Community Colleges for apportionments, to be expended in accordance with the requirements specified for Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2004.

(2) The sum of one hundred nine million nine hundred fourteen thousand dollars (\$109,914,000) is appropriated for the 2004-05 fiscal year to the Superintendent of Public Instruction for the purposes of Section 42238.44 of the Education Code, to be allocated to school districts on a pro rata basis.

(3) The following amounts are appropriated for the 2003-04 fiscal year:

(A) The sum of twelve million six hundred four thousand dollars (\$12,604,000) to the State Department of Education for transfer to the State School Deferred Maintenance Fund to be available for funding applications received by the Department of General Services, Office of

Public School Construction from school districts for deferred maintenance projects pursuant to Section 17584 of the Education Code.

(B) The sum of one hundred thirty-eight million dollars (\$138,000,000) to the State Department of Education for transfer to the Instructional Materials Fund. The funds appropriated pursuant to this subparagraph shall be apportioned to school districts on the basis of an equal amount per pupil enrolled in schools in decile 1 or 2 of the Academic Performance Index (API), as ranked based on the 2003 base API score pursuant to Section 52056 of the Education Code. The funds apportioned pursuant to this subparagraph shall be used to purchase standards-aligned instructional materials pursuant to Section 60605 of the Education Code.

(C) The sum of fifty-eight million three hundred ninety-six thousand dollars (\$58,396,000) to the Controller to pay for prior year state obligations for education mandate claims and interest. The Controller shall use the funds to pay for the oldest claims of those no longer subject to audit pursuant to subdivision (a) of Section 17558.5 of the Government Code, including accrued interest. No payments shall be made from these funds on any claims for the Standardized Testing and Reporting (STAR) Program, schoolsite councils, Brown Act reform, School Bus Safety II, or the removal of chemicals.

(D) The sum of twenty-eight million three hundred seventy-six thousand dollars (\$28,376,000) to the Board of Governors of the California Community Colleges to provide one-time funding to districts for scheduled maintenance, special repairs, instructional materials, and library materials replacement. These funds shall be expended for the purposes of and be subject to the conditions of expenditures pursuant to Schedule (24.5) of Item 6870-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003).

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subparagraphs (A) to (J), inclusive, of paragraph (1) of subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2005–06 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2005–06 fiscal year.

(c) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subparagraph (K) of paragraph (1) of subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college

districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2005–06 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code, for the 2005–06 fiscal year.

(d) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (2) of subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code for the 2004–05 fiscal year and be included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2004–05 fiscal year.

(e) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by paragraph (3) of subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003–04 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2003–04 fiscal year.

(f) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subparagraph (F) of paragraph (3) of subdivision (a) shall be deemed to be “General Fund revenues appropriated for community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2003–04 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2003–04 fiscal year.

SEC. 23. (a) The sum of twenty million two hundred thousand dollars (\$20,200,000) is hereby appropriated from the General Fund in accordance with the following schedule:

(1) The sum of five million dollars (\$5,000,000) to the State Department of Education for transfer to the State Instructional Materials Fund for purposes of acquiring instructional materials for school districts pursuant to subdivision (i) of Section 1240 of the Education Code.

(2) The sum of fifteen million dollars (\$15,000,000) to the State Department of Education for allocation to county offices of education to review, monitor, and report on teacher training, certification, misassignment, hiring and retention practices of school districts pursuant to subparagraph (G) of paragraph (1) of subdivision (a) of Section 42127.6 of the Education Code, subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 44258.9 of the Education Code, and paragraph (4) of subdivision (e) of Section 44258.9 of the Education Code, and to conduct and report on site visits pursuant to paragraph (2) of subdivision (c) of Section 1240 of the Education Code, and oversee schools' compliance with instructional materials sufficiency requirements as provided in paragraphs (2) to (4), inclusive, of subdivision (i) of Section 1240 of the Education Code. Funds appropriated in this paragraph shall be allocated annually to county offices of education at the rate of three thousand dollars (\$3,000) for each school in the county ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, pursuant to Section 52056 of the Education Code, based on the 2003 base Academic Performance Index score for each school, provided that the annual allocation for each county shall be a minimum of twenty thousand dollars (\$20,000). If there are insufficient funds in any year to make the allocations required by this paragraph, the department shall allocate funding in proportion to the number of sites in each county. County offices shall contract with another county office or independent auditor for any work funded by this paragraph that is associated with a school operated by that county office.

(3) The sum of two hundred thousand dollars (\$200,000) to the State Department of Education to implement this act.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (2) of subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2004–05 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2004–05 fiscal year. Funds appropriated by this section shall be available for transfer or encumbrance for three fiscal years, beginning in 2004–05.

SEC. 24. The State Department of Education shall develop an instrument to assist county superintendents of schools evaluate the sufficiency of textbooks pursuant to Section 1240 of the Education Code. It is the intent of the Legislature that county superintendents

conduct the evaluation during the same visit that they inspect sites pursuant to Section 1240 of the Education Code.

SEC. 25. (a) It is the intent of the Legislature to memorialize and to implement the State of California's settlement agreement in the case of *Williams v. California* (Super. Ct. San Francisco, No. CGC-00-312236) and that the provisions of law added or modified by this act be substantially preserved as a matter of state policy in settlement of this case. The state is not, however, precluded from taking additional measures in furtherance of the settlement agreement and to improve the quality of education for pupils, in ways consistent with the provisions of the settlement agreement.

(b) Further, it is the intent of the Governor and the Legislature in enacting this act to establish these minimum thresholds for teacher quality, instructional materials, and school facilities. The Legislature finds and the Governor agrees that these minimum thresholds are essential in order to ensure that all of California's public school pupils have access to the basic elements of a quality public education. However, these minimum thresholds in no way reflect the full extent of the Legislature's and the Governor's expectations of what California's public schools are capable of achieving. Instead, these thresholds for teacher quality, instructional materials, and school facilities are intended by the Legislature and by the Governor to be a floor, rather than a ceiling, and a beginning, not an end, to the State of California's commitment and effort to ensure that all California school pupils have access to the basic elements of a quality public education.

(c) It is the intent of the Legislature and of the Governor that teachers, school administrators, trustees and staff, parents, and pupils all recommit themselves to the pursuit of academic excellence in California public schools.

(d) It is the intent of the Legislature that local educational agencies, county offices of education, and state agencies with responsibility for implementing this act begin implementation as soon as practicable and with due diligence. Local educational agencies and county offices of education should use their best judgment as to the interpretation of provisions, recognizing that further implementation direction from the state in the form of statutes, regulations, and technical guidance may be provided in the future and may supersede local interpretations. The state recognizes that due to the date of enactment of this act and the time it will take to allocate the funding to local educational agencies and county offices of education, that full implementation of some of the provisions for school terms beginning in 2004-05 is impracticable.

SEC. 26. The Legislature finds and declares that Sections 10 and 11 of this act further the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 27. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 28. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that all pupils in the public schools are provided standards-aligned instructional materials and are housed in adequately maintained school facilities, to ensure that school accountability report cards include important information, and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) as soon possible, it is necessary for this act to take effect immediately.

EXHIBIT D

Assembly Bill No. 2727

CHAPTER 903

An act to amend Section 35186 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2727, Daucher. Schools: uniform complaint process.

Existing regulations require each local educational agency to adopt policies and procedures for the investigation and resolution of complaints and require each local educational agency to include in its policies and procedures the person, employee, or agency position or unit responsible for receiving complaints, investigating complaints, and ensuring local educational agency compliance.

Senate Bill 550, of the 2003–04 Regular Session, would require a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean and safe manner or in good repair, and teacher vacancy or misassignment. SB 550 would require a notice to be posted in each classroom in each school in the school district notifying parents and guardians that there should be sufficient textbooks or instructional materials, school facilities must be clean, safe, and in good repair, and the location to obtain a form to file a complaint in case of a shortage.

This bill would require a school district to use its uniform complaint process to help identify and resolve any emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff instead of conditions of facilities that are not maintained in a clean and safe manner or in good repair.

This bill would become operative only if Senate Bill 850 is also enacted.

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

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

SECTION 1. Section 35186 of the Education Code, as proposed to be added by Senate Bill 550 of the 2003–04 Regular Session, is amended to read:

35186. (a) A school district shall use the uniform complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment.

(1) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. All complaints and responses are public records.

(2) The complaint form shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

(3) A complaint shall be filed with the principal of the school or his or her designee. A complaint about problems beyond the authority of the school principal shall be forwarded in a timely manner but not to exceed 10 working days to the appropriate school district official for resolution.

(b) The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. The principal or designee of the district superintendent shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The principal or designee of the district superintendent shall report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the principal makes this report, the principal shall also report the same information in the same timeframe to the designee of the district superintendent.

(c) A complainant not satisfied with the resolution of the principal or the designee of the district superintendent has the right to describe the complaint to the governing board of the school district at a regularly scheduled hearing of the governing board. As to complaints involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of Section 17592.72, a complainant who is not satisfied with the resolution proffered by the principal or the designee of the district superintendent has the right to file an appeal to the Superintendent of Public Instruction, who shall provide a written report to the State Board of Education describing the basis for the complaint and, as appropriate, a proposed remedy for the issue described in the complaint.

(d) A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county

superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

(e) The procedure required pursuant to this section is intended to address all of the following:

(1) A complaint related to instructional materials as follows:

(A) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state adopted or district adopted textbooks or other required instructional material to use in class.

(B) A pupil does not have access to instructional materials to use at home or after school in order to complete required homework assignments.

(C) Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(2) A complaint related to teacher vacancy or misassignment as follows:

(A) A semester begins and a certificated teacher is not assigned to teach the class.

(B) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class. This subparagraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(C) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

(3) A complaint related to the condition of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff as defined in paragraph (1) of subdivision (c) of Section 17592.72 and any other emergency conditions the school district determines appropriate.

(f) In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the school district notifying parents and guardians of the following:

(1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home to complete required homework assignments.

(2) School facilities must be clean, safe, and maintained in good repair.

(3) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Web site of the department shall satisfy this requirement.

(g) A local educational agency shall establish local policies and procedures, post notices, and implement this section on or before January 1, 2005.

(h) For purposes of this section, the following definitions apply:

(1) "Good repair" has the same meaning as specified in subdivision (d) of Section 17002.

(2) "Misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(3) "Teacher vacancy" means a vacant teacher position as defined in subparagraph (A) of paragraph (5) of subdivision (b) of Section 33126.

SEC. 2. This act shall become operative only if Senate Bill 550 of the 2003–04 Regular Session is enacted.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that all pupils in the public schools are housed in adequately maintained school facilities and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) as soon as possible, it is necessary for this act to take effect immediately.

EXHIBIT E

Assembly Bill No. 1550

CHAPTER 901

An act to amend Section 37670 of, to add an article heading immediately preceding Section 37670 of, and to add Article 2 (commencing with Section 37680) to Chapter 5.5 of Part 22 of, the Education Code, relating to year-round schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1550, Daucher. Concept 6 program.

Existing law authorizes a school district to operate a program of multitrack year-round scheduling at one or more schools within the district. Under existing law, a program of multitrack year-round scheduling may operate for as few as 163 days in each fiscal year if the governing board of the school district adopts a resolution containing specified certifications at a regularly scheduled board meeting.

This bill would, commencing with the 2004–05 school year, prohibit a school district from operating a Concept 6 program unless the school district operated a Concept 6 program continuously since the 2003–04 school year. The bill would define a Concept 6 program to mean a program whereby a school operates on a 3-track year-round calendar in which each track provides fewer than 180 days, but no fewer than 163 days, of instruction per school year. The bill would require a district, as a condition of operating a Concept 6 program, by January 1, 2005, to present to the State Department of Education a comprehensive action plan detailing the strategy and steps to be taken annually to eliminate the use of the Concept 6 program as soon as practicable and no later than July 1, 2012.

The bill would require a district that plans to operate a Concept 6 program after June 30, 2006, and after July 30, 2009, to submit specified reports to the Superintendent of Public Instruction that establish substantial progress has been made toward meeting its annual goals stated in the comprehensive action plan and that it has developed a specific school building plan to provide adequate pupil capacity to eliminate the Concept 6 program. The bill would authorize the State Board of Education to appoint a monitor to oversee the district if it finds that substantial progress has not been made or a specific school building plan has not been developed and the reason for the failure is not due to

circumstances beyond the control of the district. The bill would prohibit the operation of a Concept 6 program after July 1, 2012.

Existing law requires the State Department of Education, in consultation with the Office of Public School Construction, by July 1, 2008, to conduct a survey to determine whether school districts operating a program of multitrack year-round scheduling for as few as 163 days in a fiscal year will phase out this scheduling by the 2009–10 fiscal year, and to submit the survey to specified education committees of the Legislature and to the Department of Finance. Existing law requires the Legislature to determine, based on this survey, whether to repeal or continue the authority of a school district to operate a multitrack year-round schedule for as few as 163 days.

This bill, instead, would require the department, in consultation with the Office of Public School Construction, by July 1, 2008, to conduct a survey to determine whether school districts operating a Concept 6 program will phase out this program by the 2009–10 fiscal year, and to submit the survey to specified education committees of the Legislature and to the Department of Finance. The bill would require the Legislature to determine, based on the survey, whether to repeal the authority of a school district to operate a Concept 6 program prior to July 1, 2012.

The bill would declare that it would take effect immediately as an urgency statute.

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

SECTION 1. An article heading is added immediately preceding Section 37670 of the Education Code, to read:

Article 1. Multitrack Year-round Scheduling

SEC. 2. Section 37670 of the Education Code is amended to read:

37670. (a) Except as provided in Article 2 (commencing with Section 37680), a school district may operate a program of multitrack year-round scheduling at one or more schools within the district. A program of multitrack year-round scheduling may operate at a schoolsite for as few as 163 days in each fiscal year if the governing board of the school district adopts a resolution at a regularly scheduled board meeting certifying that both of the following criteria are met at the schoolsite:

(1) The number of annual instructional minutes is not less than that of schools of the same grade levels utilizing the traditional school calendar.

(2) It is not possible for the school to maintain a multitrack schedule containing the same number of instructional days as are provided in

schools of the district utilizing the traditional school calendar given the facilities, program, class sizes, and projected number of pupils enrolled at the schoolsite.

(b) A certificated employee working under a program described in this section, except one serving under an administrative or supervisory credential who is assigned full time to a school in a position requiring qualifications for certification, shall work the same number of days and shall increase the number of minutes worked daily on a uniform basis.

(c) A program conducted pursuant to this section is eligible for apportionment from the State School Fund.

SEC. 3. Article 2 (commencing with Section 37680) is added to Chapter 5.5 of Part 22 of the Education Code, to read:

Article 2. Concept 6 Class Scheduling

37680. For purposes of this article, the following terms have the following meanings:

(a) "Capacity-related busing" means transporting a pupil to a school other than the school of residence in order to reduce the number of pupils attending the school of residence.

(b) "Circumstances beyond the control of the district" means any of the following:

(1) An increase in pupil population beyond the demographic projections set forth in the district's comprehensive action plan, or an amendment thereto, if the increase was not reasonably foreseeable through the use of annual, informed reestimates of demographic projections.

(2) A cost escalation, shortage in construction material or capacity, delay in completion of an environmental review, or natural or human-made disaster materially affecting the district's facilities program, if the circumstance was not reasonably foreseeable and the district exercised due diligence in planning for that circumstance.

(3) A lack of sufficient state or local funds to complete necessary school construction. "Lack of sufficient state or local funds" may not be substantiated if a district expends state or local funds designated for new construction for any purpose other than the construction of additional school facilities to reduce reliance on the Concept 6 program, except for funds for projects eligible to receive facility hardship funds pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10.

(c) "Comprehensive action plan" means the plan developed pursuant to Section 37682.

(d) "Concept 6" means a program whereby a school operates on a three-track year-round calendar in which each track provides fewer than 180 days, but no fewer than 163 days, of instruction per school year.

(e) "Specific school building plan" means both of the following:

(1) The district has identified preferred sites and has approved projects, as required under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), needed to satisfy the pupil capacity projected in the district's comprehensive action plan.

(2) The district has identified and obtained the funding necessary to complete the particular projects identified. If state funding is part of the funding identified, a district is deemed to have obtained state funding if it has received either of the following:

(A) An apportionment from the state for the project.

(B) A preliminary apportionment for the project under the Critically Overcrowded School Facilities Program, as set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10.

(f) "State board" means the State Board of Education.

(g) "Substantial progress" means achieving a total enrollment on Concept 6 calendars of no more than 110 percent of the annual numerical goals set forth in the district's comprehensive action plan.

(h) "Technical assistance" includes, but is not limited to, assistance in identifying and acquiring a schoolsite, guidance in maximizing access to funding, and facilitating the process of obtaining state approval for new construction projects.

37681. (a) Commencing with the 2004–05 school year, a school district may not operate a Concept 6 program, unless the school district operated a Concept 6 program continuously since the 2003–04 school year.

(b) A school initially operating on or after July 1, 2004, may not operate a Concept 6 program if operation of the program would increase the number of schools in the district operating a Concept 6 program above the number in operation in the district, on average, over the preceding two school years.

37682. (a) As a condition of operating a Concept 6 program at a school in the 2004–05 school year or thereafter, a district shall, by January 1, 2005, present to the department a comprehensive action plan detailing the strategy and steps to be taken annually to eliminate the use of the Concept 6 program as soon as practicable, and no later than July 1, 2012. Except as provided in subdivision (b), the action plan shall include all of the following:

(1) An analysis of the factors relating to the district's current and projected operation of the Concept 6 program including, but not limited

to, demographic forecasts, space use and needs, class sizes, programmatic constraints, facility construction status, the amount of funding needed to create additional classroom space, and the proposed sources of that funding.

(2) A detailed description of the multiple phases of planning and construction, including site identification, site acquisition, construction commencement and completion date, and occupancy dates of projects designed to eliminate use of the Concept 6 program, including a reasonable projection of the number of additional pupil seats to be provided through each of the multiple phases of planning and construction.

(3) Reasonable, districtwide numerical goals against which annual progress toward eliminating the use of the Concept 6 program can be measured, including a projection of the number of pupils, if any, the district estimates will remain on a Concept 6 program on July 1 of each year through 2012.

(b) If a district projects that it will eliminate the Concept 6 program on or before July 1, 2008, the district shall not be required to include in its comprehensive action plan the information contained in paragraphs (2) and (3) of subdivision (a) but, instead, shall include a narrative explanation of the manner in which it will accomplish its goal to eliminate the Concept 6 program and shall project the date that each school in the district will eliminate the program.

(c) A district may not transport pupils to another school more than 40 minutes away from the school of residence, other than as required pursuant to a desegregation plan, as a means to eliminate the Concept 6 program.

37683. (a) The Superintendent of Public Instruction shall evaluate a comprehensive action plan submitted by a district and shall make recommendations to the state board for approval or disapproval of the plan. The evaluation shall be based on the reasonableness and practicability of the district in eliminating the Concept 6 program by the earliest practicable date and no later than July 1, 2012. The evaluation shall include an analysis of whether adequate sources of funding have been identified for the projects necessary to eliminate the program. In considering whether a district has identified adequate sources of funding, the superintendent shall consult with the Office of Public School Construction.

(b) If the state board disapproves a comprehensive action plan, it shall specify the reasons for the disapproval and require the district to submit a revised plan, within a time specified by the state board, to address the state board's concerns.

37684. (a) A district operating a Concept 6 program shall report each January to the Superintendent of Public Instruction, who shall report to the state board, on progress made in reaching the annual numerical goals established in its comprehensive action plan. If a district fails to meet an annual numerical goal, the district shall identify the specific cause of the failure and amend its comprehensive action plan to indicate the specific steps that it will take to remedy that failure so that it will meet its deadline to eliminate the Concept 6 program as stated in its comprehensive action plan.

(b) If the district's progress toward meeting its numerical goals has or is projected to change materially, the district shall file a supplemental, mid-year report with the Superintendent of Public Instruction. The report shall describe the nature and cause of the material change and indicate the specific steps that the district will take, and the state technical assistance needed, if any, to address the change. The superintendent shall evaluate the supplemental, mid-year report and make recommendations to the state board for approval or disapproval. The evaluation shall be based on the reasonableness and practicability of the district to reach its annual goals and eliminate the Concept 6 program by the earliest practicable date, and no later than July 1, 2012. If the state board disapproves a report, it shall specify the reasons for disapproval and require the district to submit a revised report, within a timeframe specified by the state board, to address the concerns raised by the state board.

37685. (a) A district that plans to operate a Concept 6 program after June 30, 2006, shall, by July 1, 2006, and by July 1 of any succeeding year in which it plans to operate a Concept 6 program, as a condition of operating that program, submit evidence in writing to establish to the satisfaction of the Superintendent of Public Instruction that substantial progress has been made toward meeting its annual numerical goals as stated in its comprehensive action plan.

(b) The superintendent shall evaluate the written submission to determine whether the district has made substantial progress toward meeting its goals and shall submit a report to the state board.

37686. (a) If a district fails to meet its annual numerical goals for any two consecutive years between 2005 and 2012, the district shall be prohibited from all the following until the district achieves substantial progress toward meeting its annual numerical goals:

(1) Approving any new construction or new portable classroom other than a project directly designed to eliminate the use of the Concept 6 program or to reduce reliance on capacity-related busing that transports pupils more than 40 minutes to or from school.

(2) To the extent permitted by law, designating revenues from developer fees for any purpose not directly related to eliminating the Concept 6 program or reducing reliance on capacity-related busing.

(3) Approving the issuance of a Certificate of Participation for any school facilities-related purpose not directly related to the elimination of the Concept 6 program or reducing reliance on capacity-related busing.

(b) Subdivision (a) does not preclude a district from using funding from any source for a project that is eligible for hardship funding approved by the State Allocation Board pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10.

37687. (a) A district that plans to operate a Concept 6 program after June 30, 2009, shall by July 1 of 2009, and by July 1 of any succeeding year in which it plans to operate a Concept 6 program, submit evidence in writing to establish to the satisfaction of the Superintendent of Public Instruction that it has developed a specific school building plan to provide adequate pupil capacity to eliminate the Concept 6 program by the earliest practicable date and no later than July 1, 2012.

(b) The superintendent shall evaluate the written submission to determine whether the district has developed a specific school building plan and shall submit a report to the state board.

37688. (a) If on or after July 31, 2008, and any succeeding year in which a district operates a Concept 6 program, the state board finds that a district has failed to make substantial progress in eliminating the Concept 6 program, or if on or after July 31, 2009, and any succeeding year in which a district operates a Concept 6 program, the state board finds that a district has failed to develop a specific school building plan, the state board shall hold a public hearing to determine the cause of the failure and the remedies to be undertaken by the state board to ensure elimination of the Concept 6 program by the earliest practicable date and no later than July 1, 2012.

(b) Prior to the public hearing, the Superintendent of Public Instruction and the State Allocation Board shall each provide a written analysis and opinion to the state board as to the cause of the failure and the remedies proposed to be undertaken. The State Allocation Board shall render its opinion based upon a written analysis prepared by the Office of Public School Construction. The district may submit its own analysis as to the cause of the failure and remedies it proposes to be undertaken.

(c) After the public hearing, the state board shall adopt a remedial plan that the district shall follow to ensure elimination of the Concept 6 program by the earliest practicable date and no later than July 1, 2012.

(d) (1) If the state board determines that the failure of a district to achieve substantial progress or develop a specific school building plan

is due to circumstances beyond the control of the district, the remedial plan adopted by the state board may provide for technical assistance to the district from the department, the Office of Public School Construction, or the Division of the State Architect. The remedial plan may also recommend action for state financial assistance necessary to enable the district to eliminate the Concept 6 program by the earliest date practicable and no later than July 1, 2012.

(2) If the state board determines that the failure of the district to achieve substantial progress or develop a specific school building plan is not due to circumstances beyond the control of the district, but due to its failure to act diligently to plan for the elimination of the Concept 6 program or to execute its comprehensive action plan, the remedial plan shall mandate at least quarterly review and oversight of the district by the department. The remedial plan may also include any of the measures described in paragraph (1) or other measures as the state board deems necessary to enable the district to eliminate the Concept 6 program by the earliest date practicable and no later than July 1, 2012.

37689. (a) In addition to Section 37688, on or after July 31, 2009, if the state board determines that the failure of a district to achieve substantial progress or develop a specific school building plan is not due to circumstances beyond the control of the district, but due to its failure to act diligently to plan for the elimination of the Concept 6 program or to execute its comprehensive action plan, the board shall hold a public hearing to determine whether the state board should implement direct oversight of the district's facilities construction program.

(b) If the state board determines that direct oversight is necessary, the state board shall implement the oversight within 90 days of that determination.

(1) Direct oversight by the state board shall consist of assigning a monitor to the district who shall report to the state board at each of its regularly scheduled meetings on progress made by the district in working toward the elimination of the Concept 6 program. The monitor shall have relevant experience in engineering, construction, or management of major public works projects and shall have the resources and authority to contract with appropriate professionals in the fields of program management, project management, and finance. In selecting a monitor, the state board shall receive nominees from, and consult with, the superintendent of the district, the Office of Public School Construction, and the citizens' oversight committee of the district, established under Section 15278.

(2) The monitor shall make recommendations to the district with respect to the planning and implementation of its school construction program. The district shall follow the recommendations of the monitor

unless the district shows, to the satisfaction of the state board, good cause for not doing so. The district shall notify the state board if it disputes a recommendation and the state board shall hold a public hearing to hear and decide the dispute within 30 days of receiving the notice.

(3) The district and the citizens' oversight committee shall have an opportunity to appear at the public hearing and provide written or oral testimony to support their positions.

(4) A recommendation of the monitor that is mandatory, as opposed to prohibitory, shall be stayed during the time the dispute is before the state board.

(5) Upon the conclusion of the public hearing, the state board shall direct the district to implement the recommendations of the monitor if it finds, in consultation with the Office of Public School Construction, that the district lacks good cause for failing to implement the recommendations.

37690. All reports required by a district to be submitted to a state agency pursuant to this article shall be made available to the public. An interested party shall be permitted to submit comments regarding a report to the appropriate state agency within a reasonable time following the submission of the report to that state agency.

37691. A Concept 6 program conducted pursuant to this article is eligible for apportionment from the State School Fund.

37692. On or before July 1, 2008, the department, in consultation with the Office of Public School Construction, shall conduct a survey to determine whether the school districts operating Concept 6 programs will phase out the program by the 2009–10 fiscal year and shall submit a copy of the results of the survey to the Assembly Committee on Education, the Senate Committee on Education, and the Department of Finance. Based on the survey, the Legislature shall determine whether to repeal the authority to operate a Concept 6 program prior to July 1, 2012.

37693. (a) A Concept 6 program may not be operated after July 1, 2012, or such earlier date as may be prescribed by the Legislature pursuant to Section 37692.

(b) Although the Concept 6 program is authorized until July 1, 2012, it is the intent of the Legislature that all school districts eliminate the Concept 6 program as soon as practicable.

37694. A school district operating a Concept 6 program is exempt from the requirements of Section 37202.

37695. (a) A pupil participating in a Concept 6 program shall not be credited with more than one day of attendance in any calendar day, except as permitted in Section 46140.

(b) Average daily attendance generated at a regular elementary, junior high, or high school operated pursuant to this article shall be calculated as prescribed in subdivision (a) of Section 41601.

(c) Notwithstanding Section 37640, subdivision (a) of Section 41601, and any other law, the number of days taught in one or more late entry makeup classes in which a pupil in a Concept 6 program is enrolled shall be disregarded, at the option of a school district, in calculating the number of days taught in the calculation of average daily attendance of that district for any school year, if the pupil entered the Concept 6 program after September 1 of that school year and the track in which the pupil is enrolled began instruction in July or August of that school year. For purposes of this subdivision, "late entry makeup class" is a class in which a pupil in a Concept 6 program is enrolled in order to compensate for the pupil's late enrollment in that program. The number of days taught that are disregarded under this subdivision shall not exceed the number of schooldays occurring in the school year prior to September 1 in the track in which the pupil is enrolled, reduced by the number of schooldays, if any, occurring in a program operating under the traditional school calendar in which the pupil was enrolled in that school district in the same school year prior to the date upon which the pupil is first enrolled in the Concept 6 program.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reduce overcrowding in public schools and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, 2004, No. CGC-00-312236) as soon as possible, it is necessary for this act to take effect immediately.

EXHIBIT F

Assembly Bill No. 3001

CHAPTER 902

An act to amend Sections 42127.6, 44225.6, 44258.9, 44274, 44275.3, 44325, 44453, 44511, 52055.640, and 52059 of the Education Code, relating to teachers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3001, Goldberg. Teachers.

(1) Existing law requires the county superintendent of schools to report to the Superintendent of Public Instruction on the financial condition of a school district if the county superintendent determines a school district may be unable to meet its financial obligations for the current or 2 subsequent fiscal years or if a school district has a qualified or negative certification. Existing law requires the county superintendent to take at least one of certain actions and all actions that are necessary to ensure that the district meets its financial obligations.

This bill would require those possible actions to include assigning the Fiscal Crisis and Management Assistance Team to review district teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers, and the extent of teacher misassignment and also to provide the district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers. The bill would require a school district that is assigned this review to follow the recommendations made unless it shows good cause for failure to do so.

(2) Existing law requires the Commission on Teacher Credentialing to report, by April 15 of each year, to the Legislature and the Governor on the number of classroom teachers who received credentials, internships, and emergency permits in the previous fiscal year. The report is required to include specified information.

This bill would expand, as specified, the kind of information to be included in that report.

(3) Existing law requires the county superintendent of schools to annually monitor and review school district certificated employee assignment practices according to certain priorities with first priority going to schools and school districts that are likely to have problems

with teacher misassignment and teacher vacancies based on past experience or other available information. Existing law requires a county superintendent of schools to submit an annual report to the Commission on Teacher Credentialing summarizing the results of all assignment monitoring and reviews.

This bill would require the county superintendent of schools to give priority to schools ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, as defined, if those schools are not currently under review through a state or federal intervention program. The bill would require a county superintendent of schools to investigate school and district efforts to ensure that any credentialed teacher in an assignment requiring a certificate authorizing the holder to teach English language development to English learners or training that authorizes the holder to teach English language development to English learners completes the necessary requirements for one of those certificates or completes the required training.

The bill would require a county superintendent of schools to submit the annual report summarizing the results of assignment monitoring and reviews to the department. The bill would require that report to include information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the Academic Performance Index, as defined, to ensure that in any classes in these schools in which 20% or more pupils are English learners, the assigned teachers possess a certificate authorizing the holder to teach English language development to English learners or have completed training that would authorize them to teach English language development to English learners or are otherwise authorized by law to do so. By adding these new requirements to the duties of county superintendents of schools, the bill would impose a state-mandated local program.

The bill would require the Superintendent of Public Instruction to submit a summary of the reports submitted by county superintendents of schools to the Legislature and would require the Legislature to hold public hearings on pupil access to teachers and to related statutory provisions.

(4) Existing law requires the Commission on Teacher Credentialing to grant an appropriate credential to an applicant from another state who completes teacher preparation that is at least comparable and equivalent to preparation that meets teacher preparation standards in California if the applicant has met the requirements of California for the basic skills proficiency test and teacher fitness.

This bill would delete the basic skills proficiency test requirement for these teacher credentialing applicants if the commission determines, as specified, that the applicant has met a comparable requirement.

(5) Existing law requires an out-of-state prepared teacher who is issued a California 5-year preliminary multiple subject, single subject, or education specialist teaching credential to pass the state basic skills proficiency test, administered by the Commission on Teacher Credentialing, within one year of the issuance date of the credential in order to be eligible to continue teaching.

This bill would delete this requirement, unless the commission determines, as specified, that the applicant has met a comparable requirement.

(6) Existing law requires the commission to issue a professional clear credential to an out-of-state prepared teacher who meets certain requirements among which are passing the state basic skills proficiency test administered by the commission and completing the study of health education and of a fifth-year program at a regionally accredited institution of higher education.

This bill would delete the requirements regarding the state basic skills proficiency test and a fifth-year program, unless the commission determines, as specified, that the applicant has met comparable requirements. The bill would delete the health education requirement.

The bill would require the Commission on Teacher Credentialing, by June 30, 2005, to report to the Legislature and the Governor on the comparability and equivalency of the preparation of teachers in other states in the areas of basic skills proficiency and fifth year programs.

(7) Existing law establishes university and district teacher intern programs.

This bill would require the Commission on Teacher Credentialing to ensure that each district and university internship program in California provides program elements to its interns as required by the federal No Child Left Behind Act of 2001 and its implementing regulations.

(8) Existing law establishes the Principal Training Program, administered by the Superintendent of Public Instruction, with the approval of the State Board of Education. Incentive funding is awarded pursuant to the program to provide schoolsite administrators with instruction and training in areas that include, among others, school financial and personnel management and the curriculum frameworks and instructional materials aligned to the state academic standards.

This bill would require that instruction and training include instruction related to personnel management, including hiring, recruitment and retention practices and misassignments of certificated personnel and that instruction and training in the curriculum frameworks and instructional materials aligned to the state academic standard, include ensuring the provision of sufficient textbooks and instructional materials as required by law.

(9) Existing law establishes within the Public Schools Accountability Act of 1999, the High Priority Schools Grant Program and requires a school district that has a school participating in the program to submit a report to the Superintendent of Public Instruction that includes specified information.

This bill would require that, commencing with the 2004–05 fiscal year, for a district with a school initially applying to participate in the program on or after July 2004, the report include whether at least 80% of the teachers assigned to the school are credentialed and the number of classes in which 20% or more pupils are English learners and assigned to teachers who do not possess a certificate authorizing the holder to teach English language development to English learners or have completed training that would authorize them to teach English language development to English learners or are otherwise authorized by law to do so.

(10) Existing law requires the State Department of Education to establish a statewide system of school support that would provide intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. Existing law requires the system to provide assistance by reviewing and analyzing all facets of a school's operation and by assisting the school in developing recommendations for improving pupil performance and school operations.

This bill would require the review and analysis to include the recruitment, hiring, and retention of principals, teachers, and other staff, including vacancy issues and the roles and responsibilities of district and school management personnel. The bill would authorize the system to access the assistance of the Fiscal Crisis and Management Assistance Team to review district or school recruitment, hiring, and retention practices. The bill would require the system also to assist schools and districts in efforts to eliminate misassignments of certificated personnel.

(11) The bill would declare that the Legislature encourages school districts to provide all the schools it maintains that are ranked in deciles 1 to 3, inclusive, of the Academic Performance Index first priority to review resumes and job applications received by the district from credentialed teachers.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

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

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

SECTION 1. Section 42127.6 of the Education Code is amended to read:

42127.6. (a) (1) A school district shall provide the county superintendent of schools with a copy of a study, report, evaluation, or audit that was commissioned by the district, the county superintendent, the Superintendent of Public Instruction, and state control agencies and that contains evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section 33127, or a report on the school district by the County Office Fiscal Crisis and Management Assistance Team or any regional team created pursuant to subdivision (i) of Section 42127.8. The county superintendent shall review and consider studies, reports, evaluations, or audits of the school district that contain evidence that the school district is demonstrating fiscal distress under the standards and criteria adopted in Section 33127 or that contain a finding by an external reviewer that more than three of the 15 most common predictors of a school district needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. If these findings are made, the county superintendent shall investigate the financial condition of the school district and determine if the school district may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative interim financial certification pursuant to Section 42131. If at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or if a school district has a qualified or negative certification pursuant to Section 42131, he or she shall notify the governing board of the school district and the Superintendent of Public Instruction in writing of that determination and the basis for the determination. The notification shall include the assumptions used in making the determination and shall be available to the public. The county superintendent of schools shall report to the Superintendent of Public Instruction on the financial condition of the school district and his or her proposed remedial actions and shall do at least one of the following and

all actions that are necessary to ensure that the district meets its financial obligations:

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

(B) Conduct a study of the financial and budgetary conditions of the district that includes, but is not limited to, a review of internal controls. If, in the course of this review, the county superintendent determines that his or her office requires analytical assistance or expertise that is not available through the district, he or she may employ, on a short-term basis, with the approval of the Superintendent of Public Instruction, staff, including certified public accountants, to provide the assistance and expertise. The school district shall pay 75 percent and the county office of education shall pay 25 percent of these staff costs.

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

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

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

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

(G) Assign the Fiscal Crisis and Management Assistance Team to review teacher hiring practices, teacher retention rate, percentage of provision of highly qualified teachers, and the extent of teacher misassignment in the school district and provide the district with recommendations to streamline and improve the teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers. If a review team is assigned to a school district, the district shall follow the recommendations of the team, unless the district shows good cause for failure to do so. The Fiscal Crisis and Management Assistance Team may not recommend an action that would abrogate a contract that governs employment.

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

(3) An employee of a school district who provides information regarding improper governmental activity, as defined in Section 44112,

is entitled to the protection provided pursuant to Article 5 (commencing with Section 44110) of Chapter 1 of Part 25.

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

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

(d) Within five days of the county superintendent making the determination specified in subdivision (c), a school district may appeal that determination to the Superintendent of Public Instruction. The Superintendent shall sustain or deny the appeal within 10 days. If the governing board of the school district appeals the determination, the county superintendent of schools may stay any action of the governing board that he or she determines is inconsistent with the ability of the district to meet its financial obligations for the current or subsequent fiscal year until resolution of the appeal by the Superintendent of Public Instruction.

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

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

(2) Stay or rescind any action that is determined to be inconsistent with the ability of the school district to meet its obligations for the current or subsequent fiscal year. This includes any actions up to the point that the subsequent year's budget is approved by the county

superintendent of schools. The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

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

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

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

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

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

(h) The school district shall pay 75 percent and the county office of education shall pay 25 percent of the administrative expenses incurred pursuant to subdivision (e) or costs associated with improving the district's financial management practices. The Superintendent of Public Instruction shall develop and distribute to affected school districts and county offices of education advisory guidelines regarding the appropriate amount of administrative expenses charged pursuant to this subdivision.

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

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

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

SEC. 2. Section 44225.6 of the Education Code is amended to read:

44225.6. (a) By April 15 of each year, the commission shall report to the Legislature and the Governor on the availability of teachers in California. This report shall include the following information:

(1) The number of individuals recommended for credentials by institutions of higher education and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 42253.3 and 42253.4.

(2) The number of individuals recommended by school districts operating district internship programs and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 42253.3 and 42253.4.

(3) The number of individuals receiving an initial credential based on a program completed outside of California and the type of credential or certificate, or both, for which they were recommended, including certificates issued pursuant to Sections 42253.3 and 42253.4.

(4) The number of individuals receiving an emergency permit, credential waiver, or other authorization that does not meet the definition of a highly qualified teacher under the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(5) By county and school district, the number of individuals serving in the following capacities and as a percentage of the total number of individuals serving as teachers in the county and school district:

(A) University internship.

- (B) District internship.
- (C) Preinternship.
- (D) Emergency permit.
- (E) Credential waiver.
- (F) Preliminary or professional clear credential.

(G) An authorization, other than those listed in this paragraph, that does not meet the definition of a highly qualified teacher under the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) by category of authorization.

- (H) Certificate issued pursuant to Section 42253.3.
- (I) Certificate issued pursuant to Section 42253.4.
- (J) Certificate of completion issued pursuant to Section 42253.10.

(6) The specific subjects and teaching areas in which there are a sufficient number of new holders of credentials to fill the positions currently held by individuals with emergency permits.

(b) The commission shall make this report available to school districts and county offices of education to assist them in the recruitment of credentialed teachers and shall make the report and supporting data publicly available on the commission's Web site.

(c) A common measure of whether teacher preparation programs are meeting the challenge of preparing increasing numbers of new teachers is the number of teaching credentials awarded. The number of teaching credentials recommended by these programs and awarded by the commission are indicators of the productivity of teacher preparation programs. The commission shall include in the report prepared for the Legislature and Governor pursuant to subdivision (a) the total number of teaching credentials recommended by all accredited teacher preparation programs authorized by the commission and the number recommended by each of the following:

- (1) The University of California system.
- (2) The California State University system.
- (3) Independent colleges and universities that offer teacher preparation programs approved by the commission.
- (4) Other institutions that offer teacher preparation programs approved by the commission.

SEC. 3. Section 44258.9 of the Education Code is amended to read:

44258.9. (a) The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low. To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (c).

(b) (1) Each county superintendent of schools shall annually monitor and review school district certificated employee assignment practices according to the following priority:

(A) Schools and school districts that are likely to have problems with teacher misassignment and teacher vacancies based on past experience or other available information. The county superintendent of schools shall give priority to schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, if those schools are not currently under review through a state or federal intervention program.

(B) All other schools on a four-year cycle.

(2) Each county superintendent of schools shall investigate school and district efforts to ensure that any credentialed teacher serving in an assignment requiring a certificate issued pursuant to Section 44253.3, 44253.4, or 44253.7 or training pursuant to Section 44253.10 completes the necessary requirements for these certificates or completes the required training.

(3) The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel and teacher vacancies shall be submitted to each affected district within 30 calendar days of the monitoring activity.

(c) County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing and the department summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by the governing board of a school district under the authority of Sections 44256, 44258.2, and 44263.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) Information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to ensure that, at a minimum, in any class in these schools in which 20

percent or more pupils are English learners the assigned teacher possesses a certificate issued pursuant to Section 44253.3 or 44253.4 or has completed training pursuant to Section 44253.10 or is otherwise authorized by statute.

(5) After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

(d) The Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments which shall be based, in part, on the annual reports of the county superintendents of schools.

(e) (1) The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credential holders.

Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

(2) Commencing July 1, 1989, any certificated person who is required by an administrative superior to accept an assignment for which he or she has no legal authorization shall, after exhausting any existing local remedies, notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools shall, within 15 working days, advise the affected certificated person concerning the legality of his or her assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who files a written notification with the county superintendent of schools shall be exempt from the provisions of Section 45034. If it is determined that a misassignment has taken place, any performance evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.

(3) The county superintendent of schools shall notify, through the office of the district superintendent, any certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the

misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(4) The county superintendent of schools shall notify any superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(f) An applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.

(g) The Superintendent of Public Instruction shall submit a summary of the reports submitted by county superintendents pursuant to subdivision (c) to the Legislature. The Legislature may hold, within a reasonable period after receipt of the summary, public hearings on pupil access to teachers and to related statutory provisions. The Legislature may also assign one or more of the standing committees or a joint committee, to determine the following:

(1) The effectiveness of the reviews required pursuant to this section.

(2) The extent, if any, of vacancies and misassignments.

(3) The need, if any, to assist schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to eliminate vacancies and misassignments.

SEC. 4. Section 44274 of the Education Code is amended to read:

44274. (a) The commission shall conduct periodic reviews to determine whether any state has established teacher preparation standards, including standards for teachers of English learners, that are at least comparable and equivalent to teacher preparation standards in California.

(b) If the commission determines, pursuant to subdivision (a), that the teacher preparation standards established by any state are at least comparable and equivalent to teacher preparation standards in California, the commission shall initiate negotiations with that state to provide reciprocity in teacher credentialing.

(c) (1) The commission shall grant an appropriate credential to any applicant from another state who completes teacher preparation that is at least comparable and equivalent to preparation that meets teacher preparation standards in California, as determined by the commission pursuant to this section, if the applicant meets the requirements of California for the basic skills proficiency test pursuant to subdivision (d) of Section 44275.3 and teacher fitness pursuant to Sections 44339, 44340, and 44341.

(2) If the commission determines that the teacher licensing body of another state requires an applicant to demonstrate a level of basic skills proficiency that is at least comparable to passage of the state basic skills proficiency test, applicants from that state are not required to meet the requirements of California for the basic skills proficiency test.

(d) A reciprocity agreement established pursuant to subdivision (b) shall not exempt an out-of-state applicant from submitting an identification card pursuant to Section 44340 and obtaining a certificate of clearance, credential, permit, or certificate of eligibility from the commission.

(e) The commission shall issue credentials to out-of-state prepared teachers based on all of the following:

(1) Equivalent preparation received outside of this state.

(2) Equivalent reading instruction, as determined by the reviews conducted pursuant to Section 44274.1.

(3) Equivalent subject matter programs or credential emphasis programs, as determined by the reviews conducted pursuant to Section 44274.1.

SEC. 5. Section 44275.3 of the Education Code is amended to read: 44275.3. Notwithstanding any other provision of law:

(a) It is the intent of the Legislature that both of the following occur:

(1) That this section provide flexibility to enable school districts to recruit credentialed out-of-state elementary, secondary, and special education teachers to relocate to California.

(2) That any and all teachers hired in California pursuant to this section fully meet the requirements of the State of California or requirements deemed to be equivalent.

(b) Notwithstanding any other provision of this chapter, the commission shall issue a five-year preliminary multiple subject or single subject teaching credential or a five-year preliminary education specialist credential to any out-of-state prepared teacher who meets all of the following requirements:

(1) Possesses a baccalaureate degree from a regionally accredited institution of higher education.

(2) Completed a teacher preparation program at a regionally accredited institution of higher education.

(3) Successfully completes any criminal background check conducted pursuant to Sections 44339, 44340, and 44341 for credentialing purposes.

(4) Earned or qualified for a corresponding elementary, secondary, or special education teaching credential based upon the out-of-state teacher preparation program. The commission shall determine the area of concentration of the California education specialist credential based on the special education program completed out of state.

(c) An out-of-state prepared teacher who has been issued a California five-year preliminary multiple subject, single subject, or education specialist teaching credential shall pass the state basic skills proficiency test, administered by the commission pursuant to Section 44252, within one year of the issuance date of the credential in order to be eligible to continue teaching pursuant to this section, unless the commission determines that the teacher licensing body of the state in which the teacher completed his or her preparation requires an applicant to demonstrate a level of basic skills proficiency that is at least comparable to passage of the state basic skills proficiency test.

(d) The commission shall issue a professional clear credential to an out-of-state prepared teacher who has met the requirements in subdivision (b) and who meets the following requirements:

(1) Passage of the state basic skills proficiency test administered by the commission pursuant to Section 44252, unless the commission determines that the teacher licensing body of the state in which the teacher completed his or her preparation requires an applicant to demonstrate a level of basic skills proficiency that is at least comparable to passage of the state basic skills proficiency test.

(2) Demonstration of subject matter competence by completion of coursework or an examination approved by the commission pursuant to paragraph (5) of subdivision (b) of Section 44259. Completion of subject matter in another state that is determined by the commission to be comparable or equivalent pursuant to paragraph (1) of subdivision (a) of Section 44274.1 shall meet this requirement.

(3) Completion of a course, or for multiple subject and education specialist credentials, a course or an examination, on the various methods of teaching reading pursuant to paragraph (4) of subdivision (b) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent pursuant to paragraph (2) of subdivision (a) of Section 44274.1 shall meet this requirement.

(4) Completion of a course or examination on the provisions and principles of the United States Constitution pursuant to paragraph (6) of subdivision (b) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(5) With the exception of the education specialist credential, completion of study and field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(6) Completion of the study of computer-based technology through demonstration by course or examination of basic competence in the use of computers in the classroom, and study of advanced computer-based technology, including the uses of technology in educational settings pursuant to subparagraph (C) of paragraph (3) of subdivision (c) of Section 44259. Completion of coursework in another state determined by the commission to be comparable and equivalent shall meet this requirement.

(7) Completion of a fifth-year program at a regionally accredited institution of higher education, except that the commission shall eliminate this requirement for any candidate who has completed an induction program for beginning teachers. Completion of preparation in another state determined by the commission to be comparable and equivalent to the requirement specified by this paragraph shall meet this requirement.

(8) A teacher holding a specialist credential pursuant to this section shall complete the requirements for nonspecial education pedagogy and a supervised field experience program in general education pursuant to Section 44265.

(9) A teacher holding a specialist credential pursuant to this section shall complete a program for the Professional Level II credential accredited by the Committee on Accreditation, established pursuant to Section 44373, and the requirements specified in this subdivision.

SEC. 6. Section 44325 of the Education Code is amended to read:

44325. (a) The Commission on Teacher Credentialing shall issue district intern credentials authorizing persons employed by a school district that maintains kindergarten and grades 1 to 12, inclusive, or that maintains classes in bilingual education to provide classroom instruction to pupils in those grades and classes in accordance with the requirements of Section 44830.3. The commission, until January 1, 2008, also shall issue district intern credentials authorizing persons employed by a school district to provide classroom instruction to pupils

with mild and moderate disabilities in special education classes, in accordance with the requirements of Section 44830.3.

(b) Each district intern credential is valid for a period of two years. A credential may be valid for three years if the intern is participating in a program that leads to the attainment of a specialist credential to teach pupils with mild and moderate disabilities or four years if the intern is participating in a program that leads to the attainment of both a multiple subject or single subject teaching credential and a specialist credential to teach pupils with mild and moderate disabilities. Upon the recommendation of the school district, the commission may grant a one-year extension of the district intern credential.

(c) The commission shall require each applicant for a district intern credential to demonstrate that he or she meets all of the following minimum qualifications for that credential:

(1) The possession of a baccalaureate degree conferred by a regionally accredited institution of postsecondary education.

(2) The successful passage of the state basic skills proficiency test administered under Sections 44252 and 44252.5.

(3) The successful completion of the appropriate subject matter examination administered by the commission, or a commission-approved subject matter preparation program for the subject areas in which the district intern is authorized to teach.

(4) The oral language component of the assessment program leading to the bilingual-crosscultural language and academic development certificate for persons seeking a district intern credential to teach bilingual education classes.

(d) The commission shall apply the requirements of Sections 44339, 44340, and 44341 to each applicant for a district intern credential.

(e) The Commission on Teacher Credentialing shall ensure that each district internship program in California provides program elements to its interns as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and its implementing regulations.

SEC. 7. Section 44453 of the Education Code is amended to read:

44453. (a) For admission to all teaching internship programs authorized by this article, an applicant shall have a baccalaureate or higher degree from a regionally accredited institution of postsecondary education and shall pass a subject matter examination as provided in Section 44280 or complete a commission-approved subject matter program as provided in Section 44310.

(b) The Commission on Teacher Credentialing shall ensure that each university internship program in California provides program elements to its interns as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and its implementing regulations.

SEC. 8. Section 44511 of the Education Code is amended to read:

44511. (a) From funds appropriated for the purpose of this article, the Superintendent of Public Instruction shall award incentive funding to provide schoolsite administrators with instruction and training in areas including, but not limited to, the following:

(1) School financial and personnel management. This training shall specifically provide instruction related to personnel management, including hiring, recruitment, and retention practices and misassignments of certificated personnel.

(2) Core academic standards.

(3) Curriculum frameworks and instructional materials aligned to the state academic standards, including ensuring the provisions of textbooks and instructional materials as defined in Section 60119.

(4) The use of pupil assessment instruments, specific ways of mastering the use of assessment data from the Standardized Testing and Reporting Program, and school management technology to improve pupil performance.

(5) The provision of instructional leadership and management strategies regarding the use of instructional technology to improve pupil performance.

(6) Extension of the knowledge, skills, and abilities acquired in the preliminary administrative preparation program that is designed to strengthen the ability of administrators to serve all pupils in the school to which they are assigned.

(b) The additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating schoolsite administrators, include pedagogies of learning, motivating pupil learning, collaboration, conflict resolution, diversity, parental involvement, employee relations, and the creation of effective learning and workplace environments.

(c) All local education agencies are eligible to apply for funds appropriated for the purpose of this article.

SEC. 9. Section 52055.640 of the Education Code is amended to read:

52055.640. (a) As a condition of the receipt of funds for the initial and each subsequent year of funding pursuant to this article and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the progress made towards achieving English language proficiency as measured by

the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district. Commencing with the 2004–05 fiscal year, for a school district with a school initially applying to participate in the program on or after July 1, 2004, the report shall include whether at least 80 percent of the teachers assigned to the school are credentialed and the number of classes in which 20 percent or more pupils are English learners and assigned to teachers who do not possess a certificate issued pursuant to Section 44253.3, 44253.4, or 44253.7 or have not completed training pursuant to Section 44253.10, or are not otherwise authorized by statute to be assigned to those classes. This paragraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

(b) The report on the pupil literacy and achievement component shall be disaggregated by numerically significant subgroups, as defined in Section 52052, and English language learners and have a focus on improved scores in reading and mathematics as measured by the following:

(1) The Academic Performance Index, including the data collected pursuant to tests that are part of the Standardized Testing and Reporting Program and the writing sample that is part of that program.

(2) The results of the primary language test pursuant to Section 60640.

(3) Graduation rates, when the methodology for collecting this data has been confirmed to be valid and reliable.

(4) In addition, a school may use locally developed assessments to assist it in determining the pupil progress in academic literacy and achievement.

(c) The report on the quality of staff component shall include, but not be limited to, the following information:

(1) The number of teachers at the schoolsite holding a valid California teaching credential or district or university intern certificate or credential compared to those teachers at the same schoolsite holding a preintern certificate, emergency permit, or waiver.

(2) The number and ratio of teachers across the district holding a valid California teaching credential or district or university intern certificate or credential compared to those holding a preintern certificate, emergency permit, or waiver.

(3) The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school's progress towards achieving those goals.

SEC. 10. Section 52059 of the Education Code is amended to read:

52059. (a) For purposes of complying with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), a Statewide System of School Support shall be established by the department to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system shall consist of regional consortia, which may include county offices of education and school districts, that work collaboratively with school districts and county offices of education to meet the needs of school districts and schools in need of improvement.

(b) The system shall provide assistance to school districts and schools in need of improvement by:

(1) Reviewing and analyzing all facets of a school's operation, including the the following:

(A) The design and operation of the instructional program offered by the school.

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

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

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

(3) Assisting schools and school districts in efforts to eliminate misassignments of certificated personnel.

(c) In carrying out this article, the department shall ensure that support is provided in the following order of priority:

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

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

(3) To provide support and assistance to school districts and county offices of education with schools participating under the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) that need support and assistance to achieve the purposes of that act.

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

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

(e) Funds shall be distributed under this article based on the number of schools and enrollment of those schools in each region that have been identified as being in need of improvement pursuant to Section 6316 of Title 20 of the United States Code, or are participating in the programs conducted under this chapter.

SEC. 11. The Legislature encourages school districts to provide all the schools it maintains that are ranked in deciles 1 to 3, inclusive, of the Academic Performance Index first priority to review resumes and job applications received by the district from credentialed teachers. It is the intent of the Legislature that after all schools maintained by the district that are ranked in deciles 1 to 3, inclusive, of the Academic Performance

Index have had the opportunity to review the resumes and job applications received by the district from credentialed teachers, a school district make the resumes and applications available to other schools maintained by the district. It is not the intent of the Legislature to require, as a condition of employment, that an applicant teacher accept an offer from a school ranked in any of deciles 1 to 3, inclusive, of the Academic Performance Index.

SEC. 12. In developing the annual budget for the 2006–07 fiscal year and subsequent fiscal years, the Department of Finance, in consultation with the State Department of Education, shall review the implementation of legislation enacted pursuant to the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) and shall propose whether to use the Academic Performance Index rankings of later years in determining the applicability of legislation limited to schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index.

SEC. 13. By June 30, 2005, the Commission on Teacher Credentialing shall report to the Legislature and the Governor on the comparability and equivalency of the preparation of teachers in other states in the areas of basic skills proficiency and fifth-year programs, including, but not limited to, the number of states that have met these requirements.

SEC. 14. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that pupils in the public schools have access to qualified teachers and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) as soon as possible, it is necessary for this act to take effect immediately.

EXHIBIT G

Senate Bill No. 6

CHAPTER 899

An act to add Section 41207.5 to, and to add Article 1.5 (commencing with Section 17592.70) to Chapter 5 of Part 10.5 of, the Education Code, relating to school facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed
with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 6, Alpert. School facilities: needs assessment: emergency repairs.

Existing law requires the governing board of any school district to furnish and repair the school property of its district and authorizes each school district to establish a restricted fund, known as the district deferred maintenance fund, for the purpose of major repair or replacement of specified items. Existing law requires the State Allocation Board to apportion from the State School Deferred Maintenance Fund, to eligible school districts, an amount equal to \$1 for each \$1 of local funds deposited in the district's deferred maintenance fund.

This bill would establish the School Facilities Needs Assessment Grant Program, to be administered by the State Allocation Board, for the purpose of awarding grants to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, to conduct a one-time comprehensive assessment of school facilities needs, as provided.

The bill would establish in the State Treasury the School Facilities Emergency Repair Account, to be administered by State Allocation Board, for the purpose of reimbursing school districts with schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, for emergency facility repairs, as provided. The bill would specify the source of the funds to be deposited into this account, including from the Proposition 98 Reversion Account, and would prescribe other requirements relating to the transfer of those funds.

The bill would require the State Allocation Board, for purposes of the above new program and account, to adopt regulations, establish and publish any procedures and policies for their administration, apportion funds to eligible school districts, provide technical assistance to school districts, and make specified reports to the Governor and the Legislature.

This bill would establish in the General Fund the Proposition 98 Reversion Account and would require the Legislature to transfer into this account moneys previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. The bill would require moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund to be instead deposited in this new account.

This bill would appropriate \$250,000 from the General Fund to the State Allocation Board for the administration of the School Facilities Needs Assessment Grant Program and the School Facilities Emergency Repair Account for the 2004–05 fiscal year.

This bill would appropriate \$30,000,000 from the General Fund, of which \$25,000,000 would be appropriated to the State Department of Education for transfer to the State Allocation Board for grants to school districts under the School Facilities Needs Assessment Grant Program and \$5,000,000 would be appropriated for transfer to the School Facilities Emergency Repair Account. The bill would require the Controller to transfer those funds, as provided, upon receipt of certification from the Office of Public School Construction. The bill would provide that for the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation is General Fund revenues appropriated for school districts for the 2003–04 fiscal year.

This bill would state that the intent of the Legislature in enacting this act is to implement the settlement agreement in the case of *Williams v. State of California*.

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

Appropriation: yes.

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

SECTION 1. Article 1.5 (commencing with Section 17592.70) is added to Chapter 5 of Part 10.5 of the Education Code, to read:

Article 1.5. School Assessments of Buildings and Emergency
Repairs Grant Program

17592.70. (a) There is hereby established the School Facilities Needs Assessment Grant Program with the purpose to provide for a

one-time comprehensive assessment of school facilities needs. The grant program shall be administered by the State Allocation Board.

(b) (1) The grants shall be awarded to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school newly constructed prior to January 1, 2000.

(2) For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2003 base Academic Performance Index (API) shall include any schools determined by the State Department of Education to meet either of the following:

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

(i) Does not have a valid base API score for 2003.

(ii) Is operating in fiscal year 2004–05 and was operating in fiscal year 2003–04 during the Standardized Testing and Reporting (STAR) Program testing period.

(iii) Has a valid base API score for 2002 that was ranked in deciles 1 to 3, inclusive, in that year.

(B) The school has an estimated base API score for 2003 that would be in deciles 1 to 3, inclusive.

(3) The State Department of Education shall estimate an API score for any school meeting the criteria of clauses (i) and (ii) of subparagraph (A) of paragraph (2) and not meeting the criteria of clause (iii) of subparagraph (A) of that paragraph, using available testing scores and any weighting or corrective factors it deems appropriate. The department shall provide those API scores to the Office of Public School Construction and post them on its Web site within 30 days of the enactment of this section.

(c) The board shall allocate funds pursuant to subdivision (b) to school districts with jurisdiction over eligible schoolsites, based on ten dollars (\$10) per pupil enrolled in the eligible school as of October 2003, with a minimum allocation of seven thousand five hundred dollars (\$7,500) for each schoolsite.

(d) As a condition of receiving funds pursuant to this section, school districts shall do all of the following:

(1) Use the funds to develop a comprehensive needs assessment of all schoolsites eligible for grants pursuant to subdivision (b). The assessment shall contain, at a minimum, all of the following information for each schoolsite:

(A) The year each building that is currently used for instructional purposes was constructed.

(B) The year, if any, each building that is currently used for instructional purposes was last modernized.

- (C) The pupil capacity of the school.
 - (D) The number of pupils enrolled in the school.
 - (E) The density of the school campus measured in pupils per acre.
 - (F) The total number of classrooms at the school.
 - (G) The age and number of portable classrooms at the school.
 - (H) Whether the school is operating on a multitrack, year-round calendar, and, if so, what type.
 - (I) Whether the school has a cafeteria, or an auditorium or other space used for pupil eating and not for class instruction.
 - (J) The useful life remaining of all major building systems for each structure housing instructional space, including, but not limited to, sewer, water, gas, electrical, roofing, and fire and life safety protection.
 - (K) The estimated costs for five years necessary to maintain functionality of each instructional space to maintain health, safety, and suitable learning environment, as applicable, including classroom, counseling areas, administrative space, libraries, gymnasiums, multipurpose and dining space, and the accessibility to those spaces.
 - (L) A list of necessary repairs.
- (2) Use the data currently filed with the state as part of the process of applying for and obtaining modernization or construction funds for school facilities, or information that is available in the California Basic Education Data System for the element required in subparagraphs (D), (E), (F), and (G) of paragraph (1).
- (3) Use the assessment as the baseline for the facilities inspection system required pursuant to subdivision (e) of Section 17070.75.
- (4) Provide the results of the assessment to the Office of Public School Construction, including a report on the expenditures made in performing the assessment. It is the intent of the Legislature that the assessments be completed as soon as possible, but not later than January 1, 2006.
- (5) If a school district does not need the full amount of the allocation it receives pursuant to this section, the school district shall expend the remaining funds for making facilities repairs identified in its needs assessment. The school district shall report to the Office of Public School Construction on the repairs completed pursuant to this paragraph and the cost of the repairs.
- (6) Submit to the Office of Public School Construction an interim report regarding the progress made by the school district in completing the assessments of all eligible schools.
- 17592.71. (a) There is hereby established in the State Treasury the School Facilities Emergency Repair Account. The State Allocation Board shall administer the account.

(b) Commencing with the 2005–06 fiscal year, an amount of moneys shall be transferred in the annual Budget Act from the Proposition 98 Reversion Account to the School Facilities Emergency Repair Account equaling 50 percent of the unappropriated balance of the Proposition 98 Reversion Account or one hundred million dollars (\$100,000,000), whichever amount is greater. Moneys transferred pursuant to this subdivision shall be used for the purpose of addressing emergency facilities needs pursuant to Section 17592.72.

(c) The Legislature may transfer to the School Facilities Emergency Repair Account other one-time Proposition 98 funds, except funds specified pursuant to Section 41207. Donations by private entities shall be deposited in the account and, for tax purposes, be treated as otherwise provided by law.

(d) Funds shall be transferred pursuant to this section until a total of eight hundred million dollars (\$800,000,000) has been disbursed from the School Facilities Emergency Repair Account.

17592.72. (a) All moneys in the School Facilities Emergency Repair Account are available for reimbursement to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to meet the repair costs of the school district projects that meet the criteria specified in subdivisions (c) and (d) and as approved by the State Allocation Board.

(b) (1) It is the intent of the Legislature that each school district exercise due diligence in the administration of deferred maintenance and regular maintenance in order to avoid the occurrence of emergency repairs.

(2) Funds made available pursuant to this article shall supplement, not supplant, existing funds available for maintenance of school facilities.

(3) The board is authorized to deny future funding pursuant to this article to a school district if the board determines that there is a pattern of failure to exercise due diligence pursuant to paragraph (1) or supplantation. If the board finds a pattern of failure to exercise due diligence, the board shall notify the county superintendent of schools in which the school district is located.

(c) (1) For purposes of this article, “emergency facilities needs” means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repair or replacements of:

(A) Gas leaks.

(B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.

(C) Electrical power failure.

(D) Major sewer line stoppage.

(E) Major pest or vermin infestation.

(F) Broken windows or exterior doors or gates that will not lock and that pose a security risk.

(G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.

(H) Structural damage creating a hazardous or uninhabitable condition.

(2) For purposes of this section, “emergency facilities needs” does not include any cosmetic or nonessential repairs.

(d) For the purpose of this section, structures or components shall only be replaced if it is more cost-effective than repair.

17592.73. (a) The State Allocation Board shall do all of the following:

(1) Adopt regulations and review and amend its regulations, as necessary, pursuant to 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), for the administration of this article, including those necessary to specify the qualifications of the personnel performing the needs assessment and a method to ensure their independence. The initial regulations adopted pursuant to this article shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this article shall be adopted by January 31, 2005.

(2) Establish and publish any procedures and policies in connection with the administration of this article as it deems necessary.

(3) Apportion funds to eligible school districts under this article.

(4) Provide technical assistance to school districts to implement this article.

(5) Submit an interim status report to the Legislature and the Governor by June 30, 2005, by compiling the reports submitted pursuant to paragraph (6) of subdivision (d) of Section 17592.70.

(6) By June 30, 2008, report to the Legislature and the Governor on expenditures pursuant to Section 17592.72 and projections of future expenditures pursuant to Section 17592.72.

SEC. 2. Section 41207.5 is added to the Education Code, to read:

41207.5. There is hereby established in the General Fund the Proposition 98 Reversion Account. The Legislature shall, from time to time, transfer into the Proposition 98 Reversion Account moneys

previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. Moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund shall instead be deposited in the Proposition 98 Reversion Account.

SEC. 3. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the State Allocation Board for the administration of Article 1.5 (commencing with Section 17592.70) of Chapter 5 of Part 10.5 of the Education Code for the 2004–05 fiscal year.

SEC. 4. (a) The sum of thirty million dollars (\$30,000,000) is hereby appropriated from the General Fund according to the following schedule:

(1) The sum of twenty-five million dollars (\$25,000,000) to the State Department of Education for transfer to the State Allocation Board for grants to school districts pursuant to Section 17592.70 of the Education Code.

(2) The sum of five million dollars (\$5,000,000) for transfer to the School Facilities Emergency Repair Account for grants to school districts pursuant to Section 17592.72 of the Education Code.

(3) The Controller shall transfer any amount certified by the Office of Public School Construction to be needed to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (2) to the appropriation in paragraph (1). The Controller shall transfer any amount certified by the Office of Public School Construction to be unneeded to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (1) to the appropriation in paragraph (2). The Controller shall not make the transfer provided in paragraph (2) until receiving a certification from the Office of Public School Construction pursuant to this paragraph.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003–04 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2003–04 fiscal year.