

Enacted

ASSEMBLY BILL No. 1200

CHAPTER 1213

Eastin

An act to amend Sections 1240, 35035, 39602, 39603, 41320.1, 42100, 42103, 42127, 42127.1, 42127.2, 42127.3, and 42127.4 of, to amend and renumber Section 35014 of, to add Sections 42127.6, 42127.8, 42127.9, 42132, 42133, and 42134 to, to add Article 2.5 (commencing with Section 41325) to Chapter 3 of Part 24 of, to add Article 3 (commencing with Section 42130) to Chapter 6 of Part 24 of, to repeal and add Article 2 (commencing with Section 1620) of Chapter 5 of Part 2 of, and to repeal Sections 35015, 42102, and 42120 of, the Education Code, and to add Section 3547.5 to the Government Code, relating to school finance, and making an appropriation therefor.

[Approved by Governor October 14, 1991. Filed with
Secretary of State October 14, 1991.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, Eastin. School district budget review.

(1) Under existing law, each county superintendent of schools is required annually to submit to the county board of education certain reports regarding the financial and budgetary status of the county board of education.

This bill would revise the reporting dates for those annual reports, and would make related changes, thereby imposing a state-mandated local program.

Under existing law, each county board of education is required annually to submit its budget for approval to the Superintendent of Public Instruction, in accordance with specified procedures and criteria.

This bill would require that the public hearing on that budget be held prior to the submittal of the budget to the Superintendent of Public Instruction on or before July 1, and that the budget be filed also with the county board of supervisors and the county auditor, thereby imposing a state-mandated local program. The bill would require that the Superintendent of Public Instruction approve or disapprove the budget no later than August 1, and would make related changes.

The bill also would require, except as specified, that, on or before September 1 of each year, the county board of education make certain revisions to the county office of education budget, adopt the revised budget, and file the revised budget for review by the Superintendent of Public Instruction. The bill would thereby impose a state-mandated local program.

Under existing law, if a budget review committee recommends approval of the budget of the county office of education, the Superintendent of

Public Instruction is required to approve that budget. If the budget review committee disapproves that budget, the superintendent, with the agreement of the budget review committee, may adopt an alternative budget for the county office of education.

This bill would authorize the Superintendent of Public Instruction to approve or disapprove the budget of a county office of education whether or not the budget review committee recommends approval of that budget. If the Superintendent of Public Instruction disapproves the budget, this bill would authorize the superintendent or his or her designee, for the remainder of the fiscal year, to adopt a fiscal plan and budget to govern the county office of education, to stay or rescind actions of the county office of education that are inconsistent with the fiscal plan or budget, and otherwise to monitor and review the operation of the county office of education. This bill also would authorize the Superintendent of Public Instruction or his or her designee to exercise those powers as to any county office of education having a negative or qualified certification pursuant to the annual reports described above. The requirement that a county office of education comply with that authority, including the payment of resulting administrative costs, would impose a state-mandated local program.

The bill also would direct the Superintendent of Public Instruction to monitor the operation of each county office of education pursuant to an adopted budget and, if he or she determines that the county office of education will be unable to meet its financial obligations, to recommend appropriate remedial action. The bill would authorize the superintendent, subsequent to that notification, to revise the county office of education budget, as specified, and to stay or rescind any action that is inconsistent with those revisions. The requirement that a county office of education comply with that authority, including the payment of resulting administrative costs, would impose a state-mandated local program.

(2) Under existing law, each school district is required annually, no later than July 1, to submit a tentative budget for the current fiscal year for review and approval, pursuant to designated deadlines, by the county superintendent of schools, the Superintendent of Public Instruction and, under specified circumstances, by a budget review committee established for that purpose. Existing law requires each district to adopt a final budget no later than September 15.

This bill would eliminate the requirement that each school district submit a tentative budget and, instead, would require each school district to submit an adopted budget no later than July 1. The bill would revise the deadlines for the approval or disapproval of the budget by the county superintendent of schools. The bill would require, except as specified, that, on or before September 1 each year, the school district governing board make certain revisions to the budget, adopt the revised budget, and file the revised budget for review by the county superintendent of schools. The bill would thereby impose a state-mandated local program. The bill also would require that the budget review committee complete its review of the school district budget no later than October 31, except as specified. The bill would thereby impose a state-mandated local program.

(3) Existing law authorizes the Superintendent of Public Instruction, in the event that a school district budget is disapproved by the budget review committee, to either approve the budget or prepare an alternative budget to be agreed to jointly by the county office of education and the budget review committee.

This bill would repeal that authority and would authorize the school district governing board to respond to recommendations of the budget review committee made pursuant to its disapproval of the budget. The bill also would require, if a school district budget is disapproved by the Superintendent of Public Instruction, that the county superintendent of schools exercise certain governance over the school district for the current fiscal year, thus imposing a state-mandated local program, with the authority to monitor and review the operation of the district, to develop and adopt a fiscal plan and budget for the district, and to stay and rescind actions that are inconsistent with that budget, as specified. The bill would impose a state-mandated local program by requiring the district to pay for the resulting administrative costs. That governance would be subject to a specified appeal procedure. In addition, the bill would revise the procedure for the selection and convening of a budget review committee, including the alternative that a regional review committee be appointed for this purpose by the county superintendent of schools.

The bill also would impose a state-mandated local program by directing the county superintendent of schools to monitor the operation of each school district pursuant to an adopted budget and, if he or she determines that a school district will be unable to meet its financial obligations, to recommend appropriate remedial action and, if necessary, to notify the Superintendent of Public Instruction. The bill would authorize the county superintendent of schools, subsequent to that notification, to request additional information regarding the district's budget or operations, to revise the school district budget, as specified, and to stay or rescind any action that is inconsistent with those revisions. The bill would impose a state-mandated local program by requiring the district to pay for the resulting administrative costs.

The bill would appropriate \$500,000 for the 1991-92 fiscal year for apportionment to county superintendents of schools for the above purposes.

(4) Under existing law, the governing board of each school district is required in each fiscal year, within 45 days after the close of each of 2 designated reporting periods, to certify to the Controller and the Superintendent of Public Instruction whether it is able to meet its financial obligations for the remainder of the fiscal year. Existing law also requires each county superintendent of schools, within 75 days of the close of each reporting period, to comment to those entities as to any district certification that is classified as qualified or negative, as specified.

The bill would impose a state-mandated local program by requiring the superintendent of each school district annually to submit 2 periodic reports to the school district governing board regarding the financial

and budgetary status of the district, as specified, to serve as the basis for the certification described above.

This bill would revise that certification, and would require that each school district governing board that files a certification that is qualified or negative, as specified, provide a financial statement of projected year-end funding balances to the county superintendent of schools, the Controller, and the Superintendent of Public Instruction no later than June 1. The bill would thereby impose a state-mandated local program.

As to any school district having a negative certification, as specified, the bill would authorize a county superintendent of schools, for the remainder of the current fiscal year, to develop and adopt a budget to govern the school district, to stay or rescind any action that is consistent with that budget, and to exercise other specified powers. The requirement that a school district comply with that authority would impose a state-mandated local program.

The bill also would specify that certain authority that is currently exercised in this regard by the State Department of Education be exercised by the Superintendent of Public Instruction.

The bill also would impose a state-mandated local program by revising the reporting and commenting responsibilities of the county superintendent of schools, as described above, to occur no later than 60 days after the close of each reporting period.

(5) The bill would prohibit a school district having a qualified or negative certification, as described above, in any fiscal year from issuing, in that year or the next fiscal year, certain debt instruments, or submitting certain information reports regarding the debt instruments, unless the county superintendent of schools determines that the repayment of the indebtedness is probable. The bill similarly would prohibit a county office of education having a qualified or negative certification in any fiscal year from issuing, in that year or the next fiscal year, debt instruments, or submitting certain information reports regarding the debt instruments, unless the Superintendent of Public Instruction determines that the repayment of the indebtedness is probable. The bill would require the Superintendent of Public Instruction, no later than March 31, 1992, to develop and adopt criteria and standards to govern that determination.

(6) Under existing law, as set forth in the California Constitution, state and local governments, including school districts, are prohibited, as specified, from expending during any fiscal year an amount that exceeds the appropriations limit for that governmental entity for that fiscal year.

This bill would require each school district and county office of education annually to adopt a resolution to identify its estimated appropriations limit for the current fiscal year and its actual appropriations limit for the preceding fiscal year, as specified.

(7) Existing law permits the governing board of any school district to request an emergency loan through the Superintendent of Public

Instruction, subject to specified conditions including the appointment

of a trustee to supervise the district. That trustee serves at the pleasure of, and reports directly to, the Superintendent of Public Instruction, until the loan is repaid.

This bill would require the Superintendent of Public Instruction to exercise, through an administrator appointed by the superintendent, the powers and responsibilities of the governing board of any school district that accepts an emergency loan in an amount equal to 200% of the amount of the fiscal reserve recommended for the district under designated state standards. The bill would grant that authority for not less than one complete fiscal year, pursuant to specified conditions.

The bill would require the preparation of a management review and recovery plan and a financial recovery plan for the district, and would require the repayment of any state loans to the district over a 10-year period.

In addition, as of the date of that acceptance, the bill would authorize the administrator to terminate the employment of any district superintendent of schools, or deputy, associate, or assistant superintendent of schools for the district, pursuant to specified criteria and appropriate notice and hearing procedures.

The bill would make related changes to existing law.

(8) The bill would require a governing board having designated membership to establish a unit of persons having extensive experience in school district finance and operations to provide assistance as requested to participating county offices of education, which could be required to pay an annual fee, and to school districts, which would be charged for certain of the costs incurred by the unit pursuant to established rates. The bill would direct the Superintendent of Public Instruction and the Secretary of Child Development and Education to select a county office of education to direct that unit.

The bill would appropriate \$500,000 for the 1991-92 fiscal year for apportionment to county offices of education to meet the costs of that participation.

The bill also would require the Superintendent of Public Instruction to publish annually a multiyear projection of the revenues that will be available to school districts and county offices of education from state and local sources, as specified, to be made available to those entities for the preparation of annual budgets and financial certifications.

(9) Under existing law, school districts are authorized to establish a self-insurance fund for various losses, payments, and liabilities, as specified, and for employee health and welfare benefits. Existing law requires a school district, prior to funding health and welfare benefits in that manner, to secure the services of an actuary to evaluate the future annual costs of those benefits.

This bill would direct that, upon commencing the funding of health and welfare benefits pursuant to that authority, a school district secure the services of an actuary to evaluate the annual costs of those

benefits every 3 years.

(10) Existing law sets forth standards and procedures that govern the collective bargaining process between local educational agencies and their employees.

This bill would require that, prior to entering into a written agreement pursuant to that process, the local educational agency disclose at a public meeting the major provisions of the agreement, including the costs that would be incurred by the agency under the agreement. This requirement would impose a state-mandated local program.

(11) The bill would make related technical changes to existing law.

(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 which 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 this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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 superintendent of schools of each county shall:

(a) Superintend the schools of his or her county.

(b) 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.

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

(d) Keep in his or her office the reports of the Superintendent of Public Instruction.

(e) 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.

(f) Enforce the course of study.

(g) Enforce the use of state textbooks and of high school textbooks regularly adopted by the proper authority.

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

(i) 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 State Department of Education.

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

(1) 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.

(2) As part of each report, the 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 the subsequent fiscal year. 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 likely will be unable to meet its financial obligations for the remainder of the fiscal year or for which existing expenditures practices jeopardize the ability of the county office of education to meet its multiyear financial commitments. In accordance with those standards, the Superintendent of Public Instruction may reclassify any certification. As to any county office of education having a negative certification, the Superintendent of Public Instruction or his or her designee may exercise the authority set forth in subdivision (b) 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 of the report containing that certification, shall be sent to the Controller at the time the certification is submitted to the county board of education.

(3) 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.

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

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

(l) 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. Article 2 (commencing with Section 1620) of Chapter 5 of Part 2 of the Education Code is repealed.

SEC. 3. Article 2 (commencing with Section 1620) is added to Chapter 5 of Part 2 of the Education Code, to read:

Article 2. County Office of Education Budget Approval

1620. On or before July 1 each fiscal year, the county board of education shall hold a public hearing on the proposed county school service fund budget for that fiscal year (the "budget year"). The public hearing shall be held prior to the adoption of the budget by the county board of education, and shall occur not less than three days following the availability of the proposed budget for public inspection. At the hearing, any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak on the proposed budget or any item therein.

1621. (a) The single-fund budget shall be prepared in the form prescribed and furnished by the Superintendent of Public Instruction and shall be the county school service fund budget. The budget shall show a complete plan and itemized statement of all proposed expenditures in each fund of the county office of education, of estimated cash balances, and of all estimated revenues for the budget year, and shall include an estimate of those figures, unaudited, for the fiscal year immediately preceding the budget year.

(b) The budget may contain an amount to be known as the general reserve, in such sum as the county board of education may deem sufficient to meet the cash requirements of the fiscal year next succeeding the budget year until adequate proceeds of the taxes levied or of the apportionment of state funds are available.

(c) The budget may contain a fund balance designated for any specific purpose as determined by the county board of education. Those funds shall be available for appropriation by a majority vote of the members of the county board of education.

1622. (a) On or before July 1 each fiscal year, the county board of education shall adopt an annual budget for the budget year and shall

file that budget with the Superintendent of Public Instruction, the county board of supervisors, and the county auditor. The budget, and supporting data, shall be maintained and made available for public review. The budget shall indicate the date, time, and location at which the county board of education held the public hearing required under Section 1620.

(b) The Superintendent of Public Instruction shall examine the budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, and shall identify any technical corrections to the budget that must be made. On or before August 1, the Superintendent of Public Instruction shall approve or disapprove the budget and, in the event of a disapproval, transmit to the county office of education in writing his or her recommendations regarding revision of the budget and the reasons for those recommendations.

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

(d) The Superintendent of Public Instruction shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than September 15, shall approve or disapprove the revised budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 1623.

(e) Notwithstanding any other provision of this section, the budget review for a county office of education shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (c) and (d), if the county board of education so elects, and notifies the Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year.

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

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

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

1623. (a) The budget review committee shall be composed of three persons and shall be selected by the county superintendent of schools and the county board of education solely from a list of no fewer than five candidates provided by the Superintendent of Public Instruction. The candidates shall be persons who have expertise in the management of a school district or county office of education, including, but not be limited to, the fiscal and educational aspects of that management.

(b) No later than five working days after the receipt of the candidate list described in subdivision (a), the county superintendent of schools and the county board of education shall select the budget review committee. If the county superintendent of schools and the county board of education fail to select a committee within the period of time permitted by this subdivision, the Superintendent of Public Instruction instead shall select and convene the budget review committee no later than 10 working days after the receipt by the county superintendent of schools and the county board of education of the candidate list.

(c) No later than October 31, the budget review committee shall review the proposed budget of the county office of education and the underlying fiscal policies of that county office of education, and shall transmit to the Superintendent of Public Instruction, the county superintendent of schools, and the county board of education either of the following:

(1) The recommendation that the budget be approved.

(2) A report disapproving the budget and setting forth recommendations for revisions to the budget that would enable the county office of education to meet its financial obligations both in the budget year and with regard to multiyear financial commitments.

(d) Upon the request of the budget review committee, the Superintendent of Public Instruction may extend the deadline set forth in subdivision (c) for a period of not more than 15 working days.

(e) The Superintendent of Public Instruction shall develop criteria and procedures governing the performance by budget review committees of their duties under this section.

(f) The members of the budget review committee shall be reimbursed

for their services and associated expenses while on official business, at rates established by the State Board of Education.

1624. (a) If the budget review committee established pursuant to Section 1623 disapproves the budget of the county office of education, within five working days following the receipt of the committee's report, the county superintendent of schools and the county board of education may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted budget and any other proposed action to be taken as a result of the recommendations of the budget review committee.

(b) Based upon the recommendations of the budget review committee provided pursuant to subdivision (c) of Section 1623, and any response provided pursuant to subdivision (a), the Superintendent of Public Instruction shall either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, the superintendent or his or her designee may do any of the following for the remainder of the current fiscal year:

(1) On or before November 30, develop and adopt, in consultation with the county superintendent of schools and the county board of education, a fiscal plan and budget for the county office of education that will allow the county office of education to meet its financial obligations both in the budget year and with regard to the multiyear financial commitments. The county board of education and the county superintendent of schools shall govern the operation of the county office of education for the budget year in accordance with that fiscal plan and budget. The deadline set forth in this paragraph shall be modified to reflect any extension granted under subdivision (d) of Section 1623.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the fiscal plan and budget adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county board of education and the county superintendent of schools in writing of his or her justification for any exercise of authority under this paragraph.

(3) Monitor and review the operation of the county office of education.

(c) The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred pursuant to subdivision (b).

(d) This section shall not be construed to authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office of education prior to the date upon which the Superintendent of Public Instruction disapproved the budget of the county office of education pursuant to subdivision (b).

(e) As he or she deems necessary for the purposes set forth in subdivision (b), the Superintendent of Public Instruction may seek from

the county office of education, or otherwise obtain, additional information regarding the budget or operations of the county office of education, through a financial or management review of the county office of education, a cash-flow projection, or other appropriate means.

1625. The county superintendent of schools for any county office of education that reports a negative unrestricted fund balance or a negative cash balance in the annual report required by Section 1622 or in the audited annual financial statements required by Section 41020 shall include, with the budget submitted in accordance with Section 1622 and the certifications required by subdivision (e) of Section 1241, a statement identifying the reasons for the negative unrestricted fund balance or negative cash balance and the steps that will be taken to ensure that the negative balance will not occur at the end of the budget year.

1626. Until the time the county office of education receives approval of its budget under this article, the county office of education shall continue to operate on the basis of the last budget adopted or revised for the county office of education for the fiscal year immediately preceding the budget year.

1627. The county school service fund shall be audited annually by a public accountant or a certified public accountant selected by the county superintendent of schools. The cost of the audit shall be a legal charge against the county school service fund.

1628. On or before September 15 each year, the county superintendent of schools shall prepare and file with the Superintendent of Public Instruction a statement of all receipts and expenditures of the county office of education for the preceding fiscal year. The statement shall be in a format or on forms prescribed by the Superintendent of Public Instruction.

1629. On or before September 15 each year, the county board of education shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the county office of education for the current fiscal year and the actual appropriations limit for the county office of education for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the board. The documentation used in the identification of the appropriations limits shall be made available to the public not less than 15 days prior to the date of that meeting.

1630. (a) The Superintendent of Public Instruction shall monitor the operation of each county office of education pursuant to the budget adopted for that agency. If the Superintendent of Public Instruction determines that a county office of education will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county board of education and the county superintendent of schools in writing of that determination, and of the basis for the determination. In addition, subsequent to that determination, the Superintendent of Public Instruction may do either or both of the following:

(1) Assign a fiscal advisor to assist the county office of education.

(2) Conduct a study of the finances of the county office of education and recommend to the county board of education and the county superintendent of schools actions to enable the county office of education to meet those obligations.

(b) If, subsequent to the receipt of recommendations provided pursuant to paragraph (2) of subdivision (a), the county board of education and the county superintendent of schools fail to take appropriate action to enable the county office of education to meet its financial obligations, the Superintendent of Public Instruction or his or her designee, in consultation with the county board of education and the county superintendent of schools, may do one or more of the following for the remainder of the current fiscal year:

(1) Develop and impose, in consultation with the county board of education and the county superintendent of schools, revisions to the county office of education budget that will enable the county office of education to meet its financial obligations.

(2) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county board of education and the county superintendent of schools in writing of his or her justification for any exercise of authority under this paragraph.

(c) The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred pursuant to subdivision (b).

(d) This section does not authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office of education prior to the date upon which the Superintendent of Public Instruction assumed authority pursuant to subdivision (b).

SEC. 4. Section 35014 of the Education Code is amended and renumbered to read:

42131. (a) (1) Pursuant to the reports required by Section 42130, the governing board of each school district shall certify, in writing, within 45 days after the close of the period being reported, whether or not the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. These certifications shall be based upon the board's assessment, on the basis of standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127, of the district budget, as revised to reflect current information regarding the adopted state budget, district property tax revenues pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code, and ending balances for the preceding fiscal year as reported pursuant to Section 42100. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent of

Public Instruction for the purposes of determining subsequent actions by the Superintendent of Public Instruction, the Controller, or the county superintendent of schools, pursuant to subdivisions (b) and (c). These certifications shall be based upon the financial and budgetary reports required by Section 42130 but may include additional financial information known by the governing board to exist at the time of each certification. For purposes of this subdivision, a negative certification shall be assigned to any school district that likely will

be unable to meet its financial obligations for the remainder of the fiscal year or for which existing expenditures practices jeopardize the ability of the district to meet its multiyear financial commitments.

(2) A copy of each certification and a copy of the report submitted to the governing board pursuant to Section 42130 shall be filed with the county superintendent of schools. If a county office of education receives a positive certification when it determines a negative or qualified certification should have been filed, the county superintendent of schools shall change the certification to negative or qualified, as appropriate, and, no later than 60 days after the close of the period being reported, shall provide notice of that action to the governing board of the school district and to the Superintendent of Public Instruction. No later than five days after a school district receives notice of a change by the county superintendent of schools in the district's certification to negative or qualified, the governing board of the district may submit an appeal to the Superintendent of Public Instruction regarding the validity of that change, in accordance with the criteria applied to those designations pursuant to this subdivision. No later than 30 days after receiving that appeal, the Superintendent of Public Instruction shall determine the certification to be assigned to the district, and shall notify the school district governing board and the county superintendent of schools of that determination.

Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met and a copy of the report submitted to the governing board pursuant to Section 42130 shall be sent to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Superintendent of Public Instruction. Within 60 days after the close of the reporting period on all school district certifications that are classified as qualified or negative pursuant to this section, the appropriate county superintendent of schools shall submit to the Superintendent of Public Instruction and the Controller his or her comments on those certifications and report any action proposed or taken pursuant to subdivision (b).

(3) 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.

(4) This subdivision shall not preclude the submission of additional budgetary or financial reports by the county superintendent of schools to the district governing board, or to the Superintendent of Public Instruction.

(b) As to any school district having a negative or qualified certification, the county superintendent of schools may do one or more of the following:

(1) Exercise the authority granted in Section 42637, in accordance with the provisions of that section.

(2) Direct the district to submit to the county superintendent of schools a proposal for addressing the fiscal conditions that resulted in the negative or qualified certification.

(3) As to any school district having a negative certification, exercise the authority granted in subdivision (c) of Section 42127.6, in accordance with the provisions of that section.

(c) Whenever a district governing board transmits to the Controller and the Superintendent of Public Instruction a qualified or negative certification as required by subdivision (a), the Superintendent of Public Instruction, in cooperation with the Controller's office, shall review the certification and the attached report together with the comments of the county superintendent of schools and any other pertinent information available to them, and shall review the actions proposed or taken by the county superintendent of schools pursuant to subdivision (b). After consulting with the county superintendent of schools, the Superintendent of Public Instruction, in cooperation with the Controller's office, may take the following actions, or other actions as appropriate:

(1) With respect to qualified certifications, direct the county superintendent of schools to exercise his or her authority as prescribed in Section 42637.

(2) With respect to negative certifications, conduct an onsite review, direct the county superintendent of schools to exercise the authority granted in Section 42637 or in subdivision (c) of Section 42127.6, or direct the district to prepare alternative plans for resolving the identified fiscal problems.

(d) Within 60 days after the close of each reporting period, each county superintendent of schools shall report to the Controller and the Superintendent of Public Instruction as to whether the governing board of each of the school districts under his or her jurisdiction has submitted the certification required by subdivision (a). That report shall account for all districts under the jurisdiction of the county office of education and indicate the type of certification filed by each district.

(e) The Controller's office may conduct an audit or review of the fiscal condition of any district having a negative or qualified certification.

(f) The governing board of each school district that files a qualified or negative certification for the second report required for any fiscal year under Section 42130, or for which the second report is classified as qualified or negative by the county superintendent of schools, shall provide to the county superintendent of schools, the Controller, and the Superintendent of Public Instruction no later than June 1, a financial statement that projects the fund and cash balances of the district as of June 30. The governing boards of all other school districts are encouraged to develop a similar financial statement for use in developing the beginning fund balances of the district for the

ensuing fiscal year.

(g) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (a) to (f), inclusive, but is governed instead by the interim report, monitoring, and review procedures set forth in subdivision (j) of Section 1240 and in Article 2 (commencing with Section 1620) of Chapter 5 of Part 2.

SEC. 5. Section 35015 of the Education Code is repealed.

SEC. 6. Section 35035 of the Education Code is amended to read:

35035. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the district.

(b) Except in a district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the district, at the time it may direct, the budget of the district for the next ensuing school year, and revise and take other action in connection with the budget as the board may desire.

(c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the district when the superintendent concludes that the transfer is in the best interest of the district.

(d) Upon adoption, by the district board, of a district policy concerning transfers of teachers from one school to another school within the district, have authority to transfer teachers consistent with that policy.

(e) Determine that each employee of the district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(f) Enter into contracts for and on behalf of the district pursuant to Section 39656.

(g) Submit financial and budgetary reports to the governing board as required by Section 42130.

SEC. 7. Section 39602 of the Education Code is amended to read:

39602. (a) The governing board of any school district, by resolution, may establish a fund or funds for losses, and payments,

including, but not limited to, health and welfare benefits for its employees as defined by Section 53200 of the Government Code, school district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed those sums, to be provided in the budget of the school district, that will create an amount that, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the school district from those losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed to prohibit the governing board from providing protection against those losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 39601.

The fund or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered to be part of the working cash of the school district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, and related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities that are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of, and be deposited in, the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise, and approve claims against the district, or its officers or employees, within the limits and for amounts that the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of those claims, which checks shall be payable only from a trust account that may be established by the governing board. Funds in the trust account established by the board pursuant to this section shall not exceed a sum that is sufficient, as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of

such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to terms and limitations that the board may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising, and paying claims referred to the contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain other terms and conditions that the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions for which the board may contract under the provisions of this section.

(b) As used in this section:

(1) "Firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

(2) "Governing boards" includes governing boards of school districts and county superintendents of schools.

(3) "School district" includes a county superintendent of schools who may participate in or administer insurance or self-insurance programs for the county office of education or for one or more school districts.

(c) A county superintendent of schools may participate in or administer insurance for one or more school districts pursuant to this section or for one or more community college districts pursuant to Section 81602, for any combination of school districts and community college districts pursuant to this section and Section 81602.

(d) Prior to funding health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, to provide actuarial evaluations of the future annual costs of those benefits. The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the commencement of funding health and welfare benefits pursuant to this section.

(e) Upon commencing the funding of health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary enrolled as described in subdivision (d) to complete, every three years, an actuarial evaluation of the annual costs of those benefits. A copy of the results of that evaluation shall be submitted by the district to the county superintendent of schools.

SEC. 8. Section 39603 of the Education Code is amended to read:

39603. Nothing in this code shall be construed to prohibit two or more school districts from exercising, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the powers prescribed in Section 39602 in accordance with the terms and conditions set forth in that section and in Section 39601.

SEC. 9. Section 41320.1 of the Education Code is amended to read:

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

(a) The Superintendent of the Public Instruction shall appoint a trustee who shall have recognized expertise in management and finance, and who shall be bonded. The expenses incurred by the trustee and the costs of the bonding shall be borne by the district. The superintendent shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall serve at the pleasure of, and report directly to, the superintendent. The trustee shall serve until the loan called for by this section is repaid, the district has adequate fiscal systems and controls in place, and the superintendent has determined that the district's future compliance with the fiscal plan approved for the district under Section 41320 is probable. Before the district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the superintendent may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the district.

Notwithstanding any other provision of law, all reports submitted to the trustee shall be public records.

(b) The trustee appointed by the superintendent shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The Superintendent of Public Instruction may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the district. The trustee shall approve or reject all reports and other materials required from the district as a condition of receiving the apportionment. The superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars (\$200) per day for each late or unacceptable report or other material required under Part 24 (commencing with Section 41000) of the Education Code, and shall report to the Legislature any failure of the district to comply with the requirements of this section. If the Superintendent of Public Instruction determines, at any time, that the fiscal plan approved for

the district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

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

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

(e) For all purposes of errors and omissions liability insurance, the trustee appointed pursuant to this section shall be deemed to be an employee of the local education agency to which he or she is assigned.

SEC. 10. Article 2.5 (commencing with Section 41325) is added to Chapter 3 of Part 24 of the Education Code, to read:

Article 2.5. Conditions on Emergency Apportionments

41325. (a) The Legislature finds and declares that when a school district becomes insolvent and requires an emergency apportionment from the state in the amount designated in this article, it is necessary that the Superintendent of Public Instruction assume control of the district in order to ensure the district's return to fiscal solvency.

(b) It is the intent of the Legislature that the Superintendent of Public Instruction, operating through an appointed administrator, do all of the following:

(1) Implement substantial changes in the district's fiscal policies and practices, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Act for the adjustment of indebtedness.

(2) Revise the district's educational program to reflect realistic income projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils.

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

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

(5) Consult with and seek recommendations from the county superintendent of schools for the purposes described in this subdivision.

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

(b) The Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent of Public Instruction may appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision. The state-appointed administrator shall serve under the direction and supervision of the Superintendent of Public Instruction until terminated by the Superintendent of Public Instruction at his or her discretion. The state-appointed administrator shall have recognized expertise in management and finance, and shall be bonded.

(c) For the period of time during which the Superintendent of Public Instruction exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, in which capacity no member of the governing board shall be paid or entitled to any stipend, benefits, or other compensation.

(d) Notwithstanding Section 35031 or any other provision of law, the employment of any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, or other person employed in an equivalent capacity, whose duties include overseeing, managing, or otherwise directing the fiscal and budgetary operations of the school district, and who is employed by a school district under a contract of employment signed or renewed after the effective date of this article may be terminated by the state-appointed administrator, in accordance with appropriate notice and hearing procedures, if the employee fails to document, to the satisfaction of the state-appointed administrator, that prior to the date of that acceptance he or she either advised the governing board of the district, or his or her superior, that actions contemplated or taken by the governing board could result in the fiscal insolvency of the district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent of Public Instruction, and the state-appointed administrator, under this section shall continue

until all of the following occur:

(1) Two complete fiscal years have elapsed following the district's acceptance of a loan as described in subdivision (a), or, at any time after one complete fiscal year has elapsed following that acceptance, the state-appointed administrator determines, and so notifies the Superintendent of Public Instruction, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(2) The Superintendent of Public Instruction has approved all of the recovery plans referred to in subdivision (a) of Section 41327.

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

(4) The district has completed all reports required by the Superintendent of Public Instruction.

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

(f) When the conditions stated in subdivision (e) have been met, the school district governing board shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent of Public Instruction shall then appoint a trustee under Section 41320.1 to monitor and review the operations of the district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), in the event that the district violates any provision of the recovery plans approved by the Superintendent of Public Instruction pursuant to this article, the superintendent may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the district. The Superintendent of Public Instruction shall return to the school district governing board all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

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

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

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

(1) A management review and recovery plan.

(2) A financial recovery plan. The financial recovery plan shall include a plan to repay to the state any and all loans owed by the district. Pursuant to the financial recovery plan, the repayment by the district of any state loans shall comply with all of the following, notwithstanding any provision of Article 2 (commencing with Section 41320):

(A) The loan or loans shall be repaid over a period of no more than 10 years following the initial disbursement of moneys under a loan as described in subdivision (a) of Section 41326. The repayment of the loan or loans shall commence not later than the fiscal year following the year in which the loan described in that subdivision is made.

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

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

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

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

(C) The amount of the district budgetary reserve.

(D) The status of employee contracts.

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

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

(c) With the approval of the Superintendent of Public Instruction, the state-appointed administrator shall have authority to enter into

agreements on behalf of the district and, subject to any contractual obligation of the district, to change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in subdivision (a).

41328. (a) All costs associated with implementing the provisions of this article, including, as to a loan as described in subdivision (a) of Section 41326, the provisions of Article 2 (commencing with Section 41320), shall be borne by the district.

(b) The state-appointed administrator shall be deemed an employee of the qualifying school district for the purposes of all errors and omissions policies and workers compensation benefits.

SEC. 11. Section 42100 of the Education Code is amended to read:

42100. On or before September 15, the governing board of each school district shall approve, on a form prescribed by the Superintendent of Public Instruction, an annual statement of all receipts and expenditures of the district for the preceding fiscal year and shall file the statement with the county superintendent of schools. On or before October 15, the county superintendent of schools shall verify the mathematical accuracy of the statement and shall transmit a copy to the Superintendent of Public Instruction.

SEC. 12. Section 42102 of the Education Code is repealed.

SEC. 13. Section 42103 of the Education Code is amended to read:

42103. The governing board of each school district shall hold a public hearing on the proposed budget in a district facility, or some other place conveniently accessible to the residents of the district. The public hearing shall be held any day on or before the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127, but not less than three working days following availability of the proposed budget for public inspection. At the hearing any resident in the district may appear and object to the proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file, and shall be concluded no later than the date specified for this purpose in subdivision (f) or (h), respectively, of Section 42127. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held.

The proposed budget shall show expenditures, cash balances, and all revenues as required to be tabulated in Sections 42122 and 42123, and also shall include an estimate of those figures, unaudited, for the preceding fiscal year. In addition, any tax statement submitted by the district governing board pursuant to subdivision (a) of Section 42127, any district tax requirement computed pursuant to subdivision (b) of Section 42127 for the school year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (d) of Section 42127 shall be

made available by the district for public inspection in a facility of the district or in some other place conveniently accessible to residents of the district.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time, and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district, or if there is no such newspaper, then in any newspaper of general circulation in the county, at least three days prior to the availability of the proposed budget for public inspection. The publication of the dates and location shall occur no earlier than 45 days prior to the final date for the hearing as specified in subdivision (f) or (h), respectively, of Section 42127, nor later than 15 days prior to that date, but not less than 10 days prior to the date set for hearing. The cost of the publication shall be a legal and proper charge against the school district for which the publication is made.

SEC. 14. Section 42120 of the Education Code is repealed.

SEC. 15. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall adopt a budget. No later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget, and supporting data, shall be maintained and made available for public review. If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes that exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

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

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational

agency budgets. The superintendent shall identify, if necessary, any technical corrections that must be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

(d) On or before August 15, the county superintendent of schools shall approve or disapprove the adopted budget for each school district. If, pursuant to the review conducted pursuant to subdivision (c), the superintendent determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall disapprove the budget and, no later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations. The county superintendent of schools may assign a fiscal advisor to assist the district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than August 20.

(e) No later than August 20, the county superintendent of schools shall submit a report to the Superintendent of Public Instruction identifying all school districts for which budgets have been disapproved, including a copy of the written response transmitted to each of those districts pursuant to subdivision (d).

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

(g) The county superintendent of schools shall examine the revised budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets and, no later than September 15, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

(h) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (f) and (g), if the governing board of the school district so elects, and notifies the

Superintendent of Public Instruction in writing of that decision, no later than October 31 of the immediately preceding calendar year. On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (f) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

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

(2) No later than five working days after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1.

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

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

SEC. 16. Section 42127.1 of the Education Code is amended to read:

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

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

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

budget review committee, in accordance with the provisions of this article governing budget review committees.

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

SEC. 17. Section 42127.2 of the Education Code is amended to read:

42127.2. (a) The district governing board shall, no later than five working days after the receipt of a candidate list from the Superintendent of Public Instruction pursuant to Section 42127.1, select a budget review committee, and the Superintendent of Public Instruction shall convene the committee no later than five working days following that selection. If the governing board fails to select a committee within the period of time permitted by this subdivision, the Superintendent of Public Instruction instead shall select and convene the budget review committee no later than 10 working days after the district's receipt of the candidate list.

(b) No later than October 31, the budget review committee shall review the proposed budget of the district and the underlying fiscal policies of the district and transmit to the Superintendent of Public Instruction, the county superintendent of schools, and the district governing board either of the following:

(1) The recommendation that the school district budget be approved.

(2) A report disapproving the school district budget and setting forth recommendations for revisions to the school district budget that would enable the district to meet its financial obligations both in the current fiscal year and with regard to the district's multiyear financial commitments.

(c) Upon request of the budget review committee, the Superintendent of Public Instruction may extend the deadline set forth in subdivision (b) for a period of not and more than 15 working days.

(d) The Superintendent of Public Instruction shall establish criteria and procedures governing the performance by budget review committees of their duties under this section.

(e) Upon request of the county superintendent of schools, the Controller's office may conduct an audit or review of the fiscal condition of the school district in order to assist a budget review committee or regional review committee for the purposes of this section.

SEC. 18. Section 42127.3 of the Education Code is amended to read:

42127.3. (a) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 recommends approval of the school district budget, the county superintendent of schools shall accept the recommendation of the budget review committee and approve the budget.

(b) If the budget review committee established pursuant to Sections

42127.1 and 42127.2 disapproves the school district budget, the school district governing board, no later than five working days after receipt of the report described in paragraph (2) of subdivision (b) of Section 42127.2, may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted final budget and any other proposed actions to be taken as a result of the recommendations of the budget review committee. Based upon the recommendations of the budget review committee, and any response to those recommendations provided by the school district governing board, the Superintendent of Public Instruction shall either approve or disapprove the budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall notify the school district governing board in writing of the reasons for that disapproval and, for the remainder of the current fiscal year, the county superintendent of schools shall do all of the following:

(1) No later than November 30, develop and adopt, in consultation with the Superintendent of Public Instruction and the school district governing board, a fiscal plan and budget that will govern the district and will allow the district to meet its financial obligations, both in the current fiscal year and with regard to the district's multiyear financial commitments. The governing board of the district shall govern the operation of the district for the current fiscal year in accordance with that adopted budget.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the budget adopted pursuant to paragraph (1). 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) Monitor and review the operation of the district.

(c) The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses incurred pursuant to subdivision (b). 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 any fees charged pursuant to this subdivision.

(d) This section shall not be construed to authorize the county superintendent of schools 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 disapproved the budget of the school district pursuant to subdivision (b).

(e) As necessary for the purposes of subdivision (b), the county superintendent of schools may request funding or other assistance from the Superintendent of Public Instruction as necessary to obtain additional information regarding the district's budget or operations through a financial or management review of the district, a cash-flow projection for the district, or other appropriate means. 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.

SEC. 19. Section 42127.4 of the Education Code is amended to read:

42127.4. Until a school district receives approval of its budget under this article, the school district shall continue to operate on the basis of whichever of the following budgets contains a lower total spending authority:

(a) The last budget adopted or revised by the governing board of the school district for the prior fiscal year.

(b) The unapproved budget for the current fiscal year, as adopted and revised by the governing board of the school district.

SEC. 20. Section 42127.6 is added to the Education Code, to read:

42127.6. (a) The county superintendent of schools shall monitor the operation of each school district pursuant to the budget adopted for that district. If the county superintendent of schools determines that a school 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 in writing of that determination, and of the basis for the determination. In addition, subsequent to that determination, the county superintendent of schools may do either or both of the following:

(1) Assign a fiscal adviser to assist the district.

(2) Conduct a study of the district's finances and recommend to the governing board of the school district actions to enable the district to meet those obligations.

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

(c) If, subsequent to the receipt of recommendations provided pursuant to paragraph (2) of subdivision (a), the governing board fails to take appropriate action to enable the district to meet its financial obligations, the county superintendent shall so notify the Superintendent of Public Instruction. Subsequent to that notification, the county superintendent of schools, in consultation with the Superintendent of Public Instruction, may do one or more of the following for the remainder of the current fiscal year:

(1) Request additional information regarding the district's budget or operations.

(2) Develop and impose, in consultation with the Superintendent of Public Instruction and the school district governing board, revisions to the school district budget that will enable the district to meet its financial obligations.

(3) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (2). 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.

(d) This section does not authorize the county superintendent of schools 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 (b).

(e) The school district shall pay reasonable fees charged by the county superintendent of schools for actual administrative expenses incurred pursuant to subdivision (c). 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 any fees charged pursuant to this subdivision.

(f) Notwithstanding Section 42647 or 42650, or any other provision of law, a county treasurer shall not honor any warrant when, pursuant to Sections 42127 to 42127.6, inclusive, the county superintendent of schools or the Superintendent of Public Instruction, as appropriate, has disapproved that warrant, or has disapproved the order on school district funds for which that warrant was prepared.

SEC. 21. Section 42127.8 is added to the Education Code, to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, personnel administration, organization, and staffing. The Superintendent of Public Instruction shall appoint one employee of the State Department of Education to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the Superintendent of Public Instruction and the Secretary of Child Development and Education.

(b) The unit established under subdivision (a) shall be selected and governed by an eleven-member governing board consisting of one representative chosen by the California Association of County Superintendents of Schools from each of the 10 county service regions designated by the association, and one representative from the State Department of Education chosen by the Superintendent of Public Instruction.

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

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

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

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

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

SEC. 22. Section 42127.9 is added to the Education Code, to read:

42127.9. (a) No later than five days after a school district receives notice of any change or changes adopted by the county superintendent of schools in the district's budget pursuant to subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6, or subdivision (b) of Section 42131, the governing board of the district may submit an appeal to the Superintendent of Public Instruction, based upon the contention that the change or changes would do one or more of the following:

(1) Exceed the financial or program changes necessary to allow the district to meet its financial obligations in the current fiscal year and with regard to its multiyear financial commitments. It is the intent of the Legislature that any change or changes adopted by the county superintendent of schools in a school district's budget minimize, to the extent possible, any impact upon the educational program of the district.

(2) Require reductions that are unnecessary in view of other reductions that are proposed by the governing board of the district and that reasonably can be expected to be realized.

(3) Make one or more changes in the district's operations that are inconsistent with any provision of state or federal law.

(b) No later than five days after receiving that appeal, the

Superintendent of Public Instruction shall deny or uphold the appeal. If the appeal is denied, the district shall implement the change or changes adopted by the county superintendent of schools. If the appeal is upheld, the Superintendent of Public Instruction may revise the change or changes adopted by the county superintendent of schools or issue guidelines governing the manner in which the governing board of the district or the county superintendent of schools shall be required to change the district budget.

SEC. 23. Article 3 (commencing with Section 42130) is added to Chapter 6 of Part 24 of the Education Code, to read:

Article 3. Financial Reports and Certifications

42130. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her, submit two reports to the governing board of the district during each fiscal year. The first report shall cover the financial and budgetary status of the district for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be approved by the district governing board no later than 45 days after the close of the period being reported. All reports required by 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 maintained and made available by the school district for public review.

SEC. 24. Section 42132 is added to the Education Code, to read:

42132. The governing board of each school district annually, no later than September 15, shall adopt a resolution to identify, pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code, the estimated appropriations limit for the district for the current fiscal year and the actual appropriations limit for the district for the preceding fiscal year. That resolution shall be adopted at a regular or special meeting of the governing board. The documentation used in the identification of the appropriations limits shall be made available to the public not less than 15 days prior to the date of that meeting.

SEC. 25. Section 42133 is added to the Education Code, to read:

42133. (a) A school district that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or in the next succeeding fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments that do not require the approval of the voters of the district, nor may the district cause an information report regarding the debt instrument to be submitted pursuant to subdivision (e) of Section 149 of Title 26 of the United States Code, unless the county superintendent of schools determines, pursuant to criteria established by the Superintendent of Public Instruction, that the district's repayment of that indebtedness is probable. A school district is deemed to have a qualified or negative

certification for purposes of this subdivision if, pursuant to this

article, it files that certification or the county superintendent of schools classifies the certification for that fiscal year to be qualified or negative.

(b) A county office of education that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or in the next succeeding fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments not requiring the approval of the voters of the district, nor may the county office of education cause an information report regarding the debt instrument to be submitted pursuant to subdivision (e) of Section 149 of Title 26 of the United States Code, unless the Superintendent of Public Instruction determines that the repayment of that indebtedness by the county office of education is probable. A county office of education is deemed to have a qualified or negative certification for purposes of this subdivision if, pursuant to this article, it files that certification or the Superintendent of Public Instruction classifies the certification for that fiscal year to be qualified or negative. For purposes of this subdivision, "county office of education" includes a school district that is governed by a county board of education.

(c) No later than March 31, 1992, the Superintendent of Public Instruction shall develop and adopt criteria and standards to govern the determination to be made under subdivisions (a) and (b).

SEC. 26. Section 42134 is added to the Education Code, to read:

42134. The Superintendent of Public Instruction shall publish annually a multiyear projection of the revenues that will be available to school districts and county offices of education from state and local sources, for use by school districts and county offices of education in determining the multiyear financial condition of those entities for the purposes of this article and Article 2. That projection shall be based on revenue forecasts issued by the Department of Finance, the Legislative Analyst, or the Commission on State Finance, shall be published in a form that may easily be used by school districts and county offices of education, and shall be made available to those entities.

SEC. 27. Section 3547.5 is added to the Government Code, to read:

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

SEC. 28. 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. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 29. (a) The sum of one million dollars (\$1,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1991-92 fiscal year for apportionment as follows:

(1) The sum of five hundred thousand dollars (\$500,000) for apportionment to county superintendents of schools to fund any new program or higher level of service required by any provisions of this act that make additions or amendments to Article 2 (commencing with Section 42120) of Chapter 6 of Part 24 of the Education Code. That apportionment shall be made on the basis of an equal amount per unit of average daily attendance for all school districts within each county, except that the Superintendent of Public Instruction shall establish a minimum apportionment amount in order to ensure that county superintendents of schools in counties having a total school district average daily attendance that is substantially lower than average will receive adequate funding to carry out their responsibilities under that article.

(2) The sum of five hundred thousand dollars (\$500,000) for apportionment to county offices of education to meet the costs of participation under Section 42127.8 of the Education Code.

(b) It is the intent of the Legislature that, in the 1992-93 fiscal year and each fiscal year thereafter, funding be made available in an amount that is adequate for the purposes described in subdivision (a).